Case 2:06-cv-00389-SRW

Document 3

Filed 05/05/2006

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# IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

JOHN W. GOFF and GOFF GROUP, INC.

Plaintiffs,

v.

CIVIL ACTION NO. CV - 2006-00389-SRW

PHOENIX-DURANGO, LLC, et al.,

Defendants.

# ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES OF DEFENDANTS PHOENIX-DURANGO, LLC, JEREMIAH A. HENDERSON II, AND JEREMIAH A. HENDERSON III

COMES NOW Phoenix-Durango, LLC, Jeremiah A. Henderson II, and Jeremiah A. Henderson III, defendants in the above-styled action, and for their answer to the First Amended Complaint and Request for Restraining Order, say as follows:

#### FIRST DEFENSE

The First Amended Complaint and Request for Restraining Order ("First Amended Complaint"), and each and every count thereunder, fails to state a claim upon which relief can be granted as to these defendants.

# SECOND DEFENSE

In response to the factual allegations of the plaintiffs' First Amended Complaint<sup>1</sup>, these defendants say as follows, their responses corresponding to the numbered paragraphs of the plaintiff's First Amended Complaint:

Footnote 1 to the First Amended Complaint states that the amendment reflects "the deletion of Goff Group, Inc. as a party Plaintiff . . . ." Goff Group, Inc., however, is still a plaintiff in this case. It has not filed a Notice of Dismissal pursuant to Rule 41 of the Alabama or Federal Rules of Civil Procedure. Moreover, Goff Group, Inc. is the mortgagor of the Subject Property and the maker of the note secured by the mortgage.

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1. Defendants admit that that Plaintiff John W. Goff ("Goff") maintains a residence in, and is a resident of, Montgomery County, Alabama, and is over the age of 19. Otherwise, these defendants are without knowledge or information sufficient to form a belief as to the truthfulness of these allegations, and therefore deny them.

- 2. Defendants admit that Phoenix-Durango, LLC ("Phoenix-Durango"), is organized as a limited liability company under the laws of Delaware and that it holds a second mortgage on the Subject Property pursuant to a valid assignment of said mortgage by Community Bank & Trust. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 3. Defendants admit that Jeremiah A. Henderson II ("Henderson II") is a member of Phoenix-Durango. Defendants admit that Henderson II owns land in Troy, Alabama, but Defendants deny that Henderson II is a resident of Troy, Alabama. Henderson II is an adult resident of Houston, Texas. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 4. Defendants admit that Jeremiah A. Henderson III ("Henderson III") is a member of Phoenix-Durango. Defendants admit that Henderson III owns land in Troy, Alabama, but Defendants deny that Henderson III is a resident of Troy, Alabama. Henderson III is an adult resident of Rosemary Beach, Florida. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 5. This paragraph simply contains the plaintiffs' designation of fictitious party defendants and requires no response from these defendants. Plaintiffs' allegations in the remainder of the complaint as to fictitious defendants further do not require a response from these defendants, and therefore none is made. To the extent any such allegation against a

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fictitious defendant requires a response from these defendants, these defendants are without knowledge or information sufficient to form a belief as to the truthfulness of those allegations, and therefore deny them.

- 6. Jurisdiction is proper for this action in the United States District Court for the Middle District, Northern Division, based upon diversity of citizenship of the parties and over \$75,000 in controversy. Defendants admit that the Subject Property is located within Montgomery County, Alabama. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
  - 7. Denied.
- 8. Defendants admit that Goff was formerly married to Anne Henderson Goff ("Anne"), and that, prior to Anne's marriage to Goff, Anne was married to Henderson II. Defendants admit that Anne and Henderson II had two sons, Reynolds and Henderson III, during their marriage. Defendants deny that Goff provided for Reynolds and Henderson III as if they were his own sons. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 9. Defendants admit that Anne sought a divorce from Goff in or around August 2005. Defendants admit that Anne and Goff reached a marital settlement of all assets and other divorce related issues. Defendants admit that Goff retained the land and office building on the Subject Property, and that Anne received some of the equity in a beach house in Watercolor, Florida. Except to the extent specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 10. Defendants admit that Henderson II and Henderson III formed Phoenix-Durango, a limited liability company. Defendants admit that Phoenix-Durango purchased the second

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mortgage and the promissory note on the Subject Property which is secured by the mortgage from Community Bank & Trust. Defendants admit that Phoenix-Durango began foreclosure proceedings against the Subject Property on or about March 20, 2006, without personal notice to Goff. Defendants deny that Phoenix-Durango was required by the mortgage instrument or by law to give personal notice to Goff or to Goff Group, Inc., of its intention to foreclose on the Subject Property. Defendants are without knowledge or information sufficient to form a belief as to the truthfulness of the allegations regarding Goff's arrangement or past business relationship with Community Bank & Trust, and therefore deny them. Except as specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.

- 11. Defendants admit that Judge Price, in the Circuit Court of Montgomery County, Alabama, entered a temporary restraining order on March 24, 2006, prohibiting Phoenix-Durango from continuing with its foreclosure proceedings on the Subject Property. Defendants admit that the plaintiffs posted a \$5,000 bond in the Circuit Court of Montgomery County, Alabama, and that a hearing was initially set for a preliminary injunction on April 3, 2006. Defendants deny acknowledging through their attorneys that the initial foreclosure was improper. Except as specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.
- 12. Defendants admit that Phoenix-Durango refused to accept Goff's check of \$5,200.00. Defendants deny the money tendered by Goff would have brought the loan current. Defendants admit that they have requested Goff to bring the account current and have requested Goff to pay certain attorneys' fees due under the note secured by the mortgage. Except as specifically admitted herein, Defendants deny the remaining material allegations of this paragraph.

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- 13. All allegations of this paragraph are denied.
- 14. Defendants admit Kay Bains called Art Leadingham, the holder of a junior mortgage. Defendants admit that Art Leadingham has served as Goff's accountant. Except as specifically admitted herein, Defendants deny the remaining allegations of this paragraph.
- 15. Defendants deny that the plaintiffs are entitled to the requested injunction to stop Phoenix-Durango from proceeding with foreclosure of the subject property, and assert that the plaintiffs wrongfully procured a temporary restraining order from the Circuit Court of Montgomery County, Alabama.

#### Count One - Preliminary Injunctive Relief

- 15. The statements of law, which are not pertinent to this case, set forth in this paragraph do not require an answer from these Defendants.
  - 16. Denied.
- 17. Phoenix-Durango denies that it did not comply with the terms of the mortgage agreement in instituting foreclosure proceedings and the implication that the terms of the mortgage were ever altered. Otherwise, the statements of law set forth in this paragraph do not require an answer from these Defendants.
  - 18. Denied.
  - 19. Denied.
  - 20. Denied.
  - 21. Defendants deny that a foreclosure of the Subject Property is set for May 5, 2006.

#### Count Two - Fraud

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- 22. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 21 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.
  - 23. Denied.
  - 24. Denied.
  - 25. Denied.
  - 26. Denied.
  - 27. Denied.
  - 28. Denied.

# **Count Three - Tort of Outrage**

- 29. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 28 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.
  - 30. Denied.

#### Count Four - Negligence

- 31. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 30 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.
  - 32. Denied

#### Count Five - Conspiracy

33. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 32 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.

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- 34. Denied.
- 35. Denied.

# Count Six - Tortious Interference with Business Relations

- 36. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 35 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.
  - 37. Denied.
  - 38. Denied.

# Count Seven - Slander of Title

- 39. These defendants incorporate by reference their responses to the allegations contained in paragraphs 1 through 38 of the Plaintiffs' First Amended Complaint as if those responses were set forth fully at this point.
  - 40. Denied.
  - 41. Denied.

To the extent not specifically admitted herein, Phoenix-Durango denies each and every material averment of the First Amended Complaint and demands strict proof thereof.

## THIRD DEFENSE

The plaintiffs' fraud claims are due to be dismissed for failure to plead fraud with particularity as required by Rule 9(b) of the Federal Rules of Civil Procedure.

### FOURTH DEFENSE

The plaintiffs' negligence claims are barred by the doctrine of contributory negligence.

#### FIFTH DEFENSE

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The plaintiffs' claims for relief are barred by the doctrine of laches and unclean hands and because the plaintiffs have not offered to do equity.

#### SIXTH DEFENSE

Plaintiff John Goff is not entitled to any equitable relief because whatever interest, if any, he has in the mortgaged property was obtained for improper purposes and by improper means, and, as a result, the doctrine of unclean hands is applicable to him.

#### SEVENTH DEFENSE

The plaintiffs have failed to mitigate their damages, if any.

#### **EIGHTH DEFENSE**

These defendants deny that they are guilty of any negligent acts, fraudulent or malicious acts, or wantonness or willful conduct which proximately contributed to or caused the plaintiffs' alleged injuries or damages.

#### **NINTH DEFENSE**

These defendants deny that the plaintiffs are entitled to compensatory or punitive damages from these Defendants in this action.

#### TENTH DEFENSE

The plaintiffs have failed to allege conduct warranting imposition of exemplary or punitive damages against these Defendants under applicable state law.

#### **ELEVENTH DEFENSE**

The plaintiffs have not been damaged by any conduct on the part of these defendants.

#### TWELFTH DEFENSE

The plaintiffs' demand for punitive damages violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution in that the claim for punitive damages is vague and not rationally related to any legitimate government interests.

#### THIRTEENTH DEFENSE

The plaintiffs' demand for punitive damages violates the Sixth Amendment of the United States Constitution in that the plaintiffs' claim for punitive damages is a claim that is penal in nature, entitling these defendants to the same procedural safeguards afforded to a criminal defendant under the Sixth Amendment.

#### FOURTEENTH DEFENSE

The plaintiffs' demand for punitive damages violates the Fifth Amendment of the United States Constitution which prohibits deprivation of life, liberty or property except by due process of law in that the claim for punitive damages is vague and not rationally related to any legitimate government interests.

#### FIFTEENTH DEFENSE

The plaintiffs' demand for punitive damages violates the rights guaranteed by the United States Constitution in that the claim for punitive damages is penal in nature, but the burden of proof on the plaintiffs is less than the "beyond the reasonable doubt" standard required in criminal cases.

#### SIXTEENTH DEFENSE

The plaintiffs' demand for punitive damages is unconstitutional under the Constitution of the State of Alabama which provides in Article I, Section 6, that no person shall be deprived of life, liberty and property except by due process of law, in that the claim for punitive damages is vague and not rationally related to any legitimate government interests.

#### SEVENTEENTH DEFENSE

The plaintiffs' demand for punitive damages is unconstitutional under the Constitution of the State of Alabama which provides in Article I, Section 6, that no person shall be deprived of life, liberty or property except by due process of law, in that the punitive damages claimed are penal in nature, but the burden of proof on the plaintiff is less than the "beyond a reasonable doubt" burden of proof required in criminal cases.

#### EIGHTEENTH DEFENSE

These defendants avers that any award of punitive damages to the plaintiffs in this case will violate the constitutional safeguards provided to these defendants, based upon the following grounds:

- a. There is a lack of reasonable standards necessary to instruct the jury on the propriety and the amount of any punitive damage award;
- b. The power and authority of the jury under Alabama law to decide the amount of a punitive damage award is so unfettered that there is lacking any reasonable logic or standard, uniformity, criteria, or guidance in the assessment of the amount of the award of punitive damage;
- c. Alabama procedures, pursuant to which amounts of punitive damages are awarded, are unconstitutionally void for vagueness.

#### NINETEENTH DEFENSE

Defendants give notice that they will rely upon such other and further defenses as may become apparent during the course of this action.

/s/Vernon L. Wells, II

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/s/C. Ellis Brazeal

Attorneys for Defendants Phoenix-Durango, LLC, Jeremiah A. Henderson II, and Jeremiah A. Henderson III

OF COUNSEL Walston, Wells & Birchall, LLP 1819 5<sup>th</sup> Avenue North, Suite 1100 Birmingham, Alabama 35203 Telephone: (205) 244-5200 Telecopier: (205) 244-5400

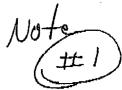
#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of May, 2006, I electronically filed the foregoing ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES BY PHOENIX-DURANGO, LLC, JEREMIAH A. HENDERSON II, AND JEREMIAH A. HENDERSON III with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas T. Gallion, III
Haskell, Slaughter, Young & Gallion, LLC
305 South Lawrence Street
PO Box 4660
Montgomery, Alabama 36103-4660

/s/ Vernon L. Wells, II

COMMUNITY BANK & TRUST: ALABAMA   Login Injury   4006155   FEX. COPF-N, B.A.   TRUST   ALABAMA   Login Injury   4006155   FEX. COPF-N, B.A.   Login Injury	)ase 2:06,6v-90389-MHT-SR	RW Document	8-2 Filed 0	5/25/2006 N	Page 12 of 33 3926
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ADDITIONAL TERMS	Notes
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Equipment: All equipment including, but not limited to, all machiner equipment; shop equipment, office and recordsceping equipment, and part also be included in the recuired property, but such a list is not necest farm Products: All fam products including, but not limited to:  (a) all poultry and livestock and their young; along with their products, products of the crops; annual or perantilal; and all products of the crops; and (c) all feed; seed, fertilizer; medicines, and other supplies used or products.	y, vehicles, furniture, fixtures, manufacturing equipment, farm machinery and pairs and tools. All equipment described in a list of schedule which I give to you sary for a valid security interest in my equipment.  oduce and replacements ced in my farming operations.
Li Accounts, instruments, Documents, Chartel Paper and Other High payment of money including, but not fimiled to:  (a) payment for goods and other property cold or leased or for services, (b) rights to payment arising out of all present and future debt instrument. The above include any rights and interests (including all liens and security).	rendered, whether or ript! have samed such payment by performance; and its, chattel paper and loans and obligations receivable.  Ity Interests) which I may have by law or agreement against any account debtor
General Intangibles: All general Intangibles including, but not limited secrets, good will, trade names, costomer lists, permits and franchises,	to, tax retunds, applications for patents, patents, copyrights, trademarks, trade and the right to use my name:
Government Payments and Programs: All payments, accounts, gene deficiency payments, fatters of entitlement, warehouse receipts, sto conservation reserve payments) in which I now have and in the future pressisting; current or future Federal or state governmental program (in Corporation and the ASCS).	rel intangibles, or other benefits (including, but not limited to; payments in kind, rage payments, emergency assistance payments, diversion payments, and e may have any rights or interest and which attse under or as a result of any roluding, but not limited to, all programs administered by the Commodity Credit
The secured property includes, but is not limited by, the following:  REAL ESTATE MORTGACE ON REAL ESTATE MORE CI IN THE PRINCIPAL AMOUNT OF \$648,915.24 TO  PROBATE MONTGOMERY COUNTY, ALABAMA	LEARLY DEFINED IN MORTGAGE DATED JULY 25, 2000 BE FILED FOR RECORD IN THE OFFICE OF JUDGE OF
If this agreement covers jumber to be cut, minerals (including oil and gas), fixtures or crops growing onto be grown, the description of the real estate is:	The Property will be used for a Dipersonal TE business purpose.
	SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.
. If checked, tile this agreement on the real estate records.	Caution - IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS
Record owner (if not me)	CONTRACT BEFORE YOU BIGN IT.
	GOFF GROUP, INC.
DISPOSITION OF FUNDS	FKA GOFF-N.B.A.; INC. 63-1078035
Deposited to Account Number	BY: A CONTROL OF THE PROPERTY
SIGNATURE FOR LENDER	John w. Coff Prisident
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UNIVERSAL NOTE AND SECURITY AGREEMENT © 1984, 1981 Bankers Systems, Inc., Str. Cloud, MN. Form UNS-AL 1/28/88

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(page 1 of 2)



#### ADDITIONAL TERMS OF THE NOTE

DEFINITIONS - As used on page 1, "\( \text{\text{\text{T}}} \) means the terms that apply to this loan. "\( \text{\text{\text{T}}} \) "me" or "my" means each Borrower who signs this note and each other person or legal entity (including guarantors, endorsers, and surelies) who agrees to pay this note (together referred to as "us"). "You" or "your means the Lender and its successors and easigns.

APPLICABLE LAW - The law of the state of Alabama will govern this agreement. Any term of this agreement which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this note or any agreement securing this note is effective unless the modification is in writing and signed by you and me. Time is of the essence in this agreement.

PAYMENTS - Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any pertial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary. and I agree in writing to the contrary).

and I agree in writing to the contrary).

INTEREST - Interest accruses on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance Will start to earn interest only when I neceive the advance. The interest rate in effect on this note at any given time will apply to the entire principal sum outstanding at that time. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of oredit that is agreed to in this note (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

MIDEX RATE - The Index will serve only as a device for setting the interest rate.

INDEX RATE - The Index will serve only as a device for setting the interest rate on this note. You do not guarantee by selecting this index, or the margin, that the interest rate on this note will be the same rate you charge on any other loans or class of loans you make to me or other borrowers.

POST MATURITY RATE - For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS - If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below.

MULTIPLE ADVANCE LOANS - If this is a multiple advence loan, you and I expect that you will make more than one advance of principal. If this is closed and credit, repaying a part of the principal will not entitle me to additional credit.

SET-OFF - I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

- (1) any deposit account balance I have with you;
- (2) any money owed to me on an item presented to you or in your possession for collection or exchange; and
- (3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you proposity excelerate under this root. properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative, it also does not apply to any individual Retirement Account or other tax-deterred retirement account.

You will not be lighte for the distinguishing any check when the distinguished occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right to set-off.

DEFAULT - I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the Property Insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other craditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any inlancial information that is untrue or insocurate at the time it was provided; (7) I do or fail to do something which causes you to betieve you will have difficulty collecting the amount I owe you; (6) any collecteral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excassive erusion of highly erodible land or to the conversion of weitands to produce an agricultural commodity, as turther explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M.

REMEDIES - if I am in default on this note you have, but are not limited to, the following remedies:

- (1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued unpaid charges).
- You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "SET-OFF" paragraph herein.
- You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remedy.
- You may refuse to make advances to me or allow purchases on credit by me.
- (5) You may use any remedy you have under state or federal law.
- You may make use of any remedy given to you in any agreement securing this note.

By selecting any one or more of these remedies you do not give up your right to use later any other ramedy. By waiving your right to declare an event to be a default, you do not waive your right to consider later the event a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES - I agree to pay all costs of collection, replayin or any other or similar type of cost if I am in default, in addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plue court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER - I give up my rights to require you to do certain things. I will not require you to:

- (1) demand payment of amounts due (presentment);
- (2) obtain official certification of nonpayment (protest); or
- (3) give notice that amounts due have not been paid (notice of dishonor).

To the extent permitted by law, I also waive all personal property exemptions in the property securing this loan. I waive any defenses I have based on suretyship or impairment of collateral.

OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or dabt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approved. OBLIGATIONS INDEPENDENT - I understand that I must pay this note even if

CREDIT INFORMATION - I agree and authorize you to obtain credit information about me from time to time (for example, by requesting a credit report) and to report to others your credit experience with me (such as a credit reporting agency). I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be accurate, correct and complete.

Back of Note

Backof

#### ADDITIONAL TERMS OF THE SECURITY AGREEMENT

GENERALLY - This agreement secures this note and any other debt I have with you, now or later. However, it will not secure other debts if you tail with respect to such other debts, to make any required disclosure about this security agreement or if you fail to give any required notice of the right of rescission. It property described in this agreement is located in another state, this agreement may also, in some circumstances, be governed by the law of the state in which the Property is benefit. the Property is located.

OWNERSHIP AND DUTIES TOWARD PROPERTY - I represent that I own all of the Property, or to the extent this is a purchase money security interest i will acquire ownership of the Property with the proceeds of the loan, I will defend it against any other claim. Your claim to the Property is ahead of the claims of any other creditor. I agree to do whatever you require to protect your security interest and to keep your claim in the Property ahead of the claims of other creditors. I will not do anything to harm your position.

I will keep books, records and accounts about the Property and my business in general. I will let you examine these records at any reasonable time. I will prepare any report or accounting you request, which deals with the Property.

I will keep the Property In my possession and will keep it in good repair and use it only for the purpose(s) described on page 1 of this agreement. I will not change this specified use without your express written permission. I represent that I am the original owner of the Property and, if I am not, that I have provided you with a list of prior owners of the Property.

I will keep the Proporty at my address listed on page 1 of this agreement, unless we agree I may keep it at another location, if the Property is to be used in another state, I will give you a list of those states. I will not try to sell the Property unless it is inventory or I receive your written permission to do so. If I sell the Property I will have the payment made payable to the order of you and me.

You may demand immediate payment of the debt(s) if the debtor is not a natural person and without your prior written consent; (1) a beneficial interest in the debtor is sold or transferred, or (2) there is a change in either the identity or number of members of a partnership, or (3) there is a change in ownership of more than 25 percent of the voting stock of a corporation.

I will pay all taxes and charges on the Property as they become due. You have the right of reasonable access in order to inspect the Property. I will immediately inform you of any loss or damage to the Property.

If I fall to perform any of my dulles under this security agreement, or any mortgage, deed of trust, lien or other security interest, you may without notice to me perform the duties or cause them to be performed. Your right to perform for me shall not create an obligation to perform and your failure to perform will not preduce you from exeroising any of your other rights under the law or this security agreement

PURCHASE MONEY SECURITY INTEREST - For the sole purpose of determining the extent of a purchase money security interest arising under this security agreement: (a) payments on any nonpurchase money loan also secured by this agreement will not be deemed to apply to the Purchase Money Loan, and (b) payments on the Purchase Money Loan will be deemed to apply first to the nonpurchase money portion of the loan, if any, and then to the purchase money obligations in the order in which the items of collateral were adquired or if acquired at the same time, in the order selected by you. No security interest will be terminated by application of this formula. "Purchase Money Loan" means any loan the proceeds of which, in whole or in part, are used to acquire any collateral securing the loan and all extensions, renewals, consolidations and refinancing of such loan.

PAYMENTS BY LENDER - You are authorized to pay, on my behalf, charges I am or may become obligated to pay to preserve or protect the secured property (such as property insurance premiums). You may treat those payments as advances and add them to the unpaid principal under the note secured by this agreement or you may demand immediate payment of the amount advanced.

INSURANCE - I agree to buy insurance on the Property against the risks and for the amounts you require and to furnish you continuing proof of coverage. I will have the insurance company name you as loss payee on any such policy. You may require added security if you agree that insurance proceeds may be used to repair or replace the Property. I will buy insurance from a firm licensed to do business in the state where you are located. The firm will be reasonably acceptable to you. The insurance will last until the Property is released from this agreement. If I fail to buy or maintain the insurance (or fail to name you as loss caseal) you may numbase it yourself. payee) you may purchase it yoursetf.

WARRANTIES AND REPRESENTATIONS - If this agreement includes accounts, I will not settle any account for less than its full value without your written permission. I will collect all accounts until you tell me otherwise. I will keep the proceeds from all the accounts and any goods which are returned to me or which I take back in trust for you. I will not mix them with any other property of mine. I will deliver them to you at your request. If you ask me to pay you the full price on any returned items or items retaken by myself, I will

If this agreement covers inventory, I will not dispose of it except in my ordinary course of business at the fair market value for the Property, or at a minimum price established between you and me.

If this agreement covers farm products I will provide you, at your request, a written list of the buyers, commission merchants or selling agents to or through whom I may sell my farm products. In addition to those parties named on this written list, I authorize you to notify at your sole discretion any additional parties regarding your security interest in my farm products. I remain subject to all applicable penalties for selling my farm products in violation of my agreement with you and the Food Security Act. In this paragraph the terms farm products, buyers, commission merchants and selling agents have the meaning of your to them in the Federal Food Security Act of 1985. meanings given to them in the Federal Food Security Act of 1985.

meanings given to them in the receive round security Aut of 1965.

REMEDIES - I will be in default on this security agreement if I am in default on any note this agreement secures or if I fall to keep any promise contained in the terms of this agreement. If I default, you have all of the rights and remedies provided in the note and under the Uniform Commercial Code. You may require me to make the secured property available to you at a place which is reasonably convenient. You may take possession of the secured property and sell it as provided by law. The proceeds will be applied first to your expenses and then to the debt. I agree that 10 days written notice sent to my last known address by first class mall will be reasonable notice under the Uniform Commercial Code. My current address is on page 1. I agree to inform you in writing of any change of my address. writing of any change of my address,

FILING - A carbon, photographic or other reproduction of this security agreement or the financing statement covering the Property described in this agreement may be used as a financing statement where allowed by law. Where permitted by law, you may file a financing statement which does not contain my signature, covering the Property secured by this agreement.

Any person who signs within this box does so to give you a security interest in the Property described on page 1. This person does not promise to pay the note. "!" as used in this security agreement will include the borrower and any person who signs within this box.
Date
Signed

#### COK ORATION MORTGAGE

STATE OF ALABAMA COUNTY OF MONTGOMERY

KNOW ALL MEN BY THESE PRESENTS, that, whereas, Goff Group, Inc., f/k/a Goff N.B.A., Inc., is justly indebted to Community Bank & Trust - Alabama, hereinafter referred to as MORTGAGEE, in the principal sum of Six Hundred Forty Thousand Nine Hundred Fifteen and 24/100 DOLLARS (\$648,915.24), as evidenced by its promissory note bearing even date herewith.

NOW, in order to secure the prompt payment of said note when due, the said Goff Group, Inc., f/k/a Goff N.B.A., Inc., hereinafter referred to as MORTGAGOR, for and in consideration of the premises, and the sum of Five Dollars (\$5.00) to the undersigned this day in hand paid by the said Mortgagee, the receipt whereof is hereby acknowledged, does hereby GRANT, BARGAIN, SELL and CONVEY to the said Mortgagee the following described real estate lying and being situated in Montgomery County, State of Alabama, towit:

Lot 1-A, Block A, according to the Map of Technacenter Plat No. 2, as said Map appears of record in the Office of the Judge of Probate of Montgomery County, Alabama, in Plat Book 41, at Page 150.

TO HAVE AND TO HOLD the aforegranted premises, together with the improvements and appurtenances thereunto belonging, unto the said Mortgagee, its successors and assigns, FOREVER.

Said Mortgagor does hereby covenant with the said Mortgagee, its successors and assigns, that the Mortgagor is lawfully seized in fee of said premises; that they are free of and from all encumbrances, except as of record; and that Mortgagor will warrant and forever defend the same against the lawful claims and demands of all persons.

THIS CONVEYANCE IS MADE UPON THE FOLLOWING CONDITIONS, NEVERTHELESS: If Mortgagor shall well and truly pay, or cause to be paid, the said note, and each and all of them, and each and every installment thereof, and interest thereon, when due, then this conveyance shall become null and void. But should Mortgagor fail to pay said note or either or any of them or any installment thereof at maturity, then all of said indebtedness shall become due and payable at once, whereupon, the said Mortgagee, its successors, assigns, agents or attorneys, are hereby authorized and empowered to sell the said property hereby conveyed at auction for cash, at the Montgomery County Courthouse door in the City of Montgomery, Alabama, first having given notice thereof for three (3) successive weeks by publication in any newspaper then published in said City, and execute proper conveyance to the purchaser and out of the proceeds of said sale, the Mortgagee shall first pay all expenses incident thereto, together with a reasonable attorney's fee, then retain enough to pay said note and interest thereon and any sums advanced by Mortgagee for taxes, insurance or assessments, and the balance if any, pay over to the Mortgagor.

In the event of such sale, the said Mortgagee, its successors, assigns, agents or attorneys are hereby authorized and empowered to purchase the said property the same as if they were strangers to this conveyance, and the auctioneer or person making the sale is hereby empowered and directed to make and execute a deed to the purchaser in the name of the Mortgagor.

It is also agreed that in case the Mortgagee herein, its successors and assigns, sees fit to foreclose the Mortgage in a court having jurisdiction thereof, Mortgagor will pay a reasonable attorney's fee therefore, which fee shall be and constitute a part of the debt hereby secured.

Mortgagor further represents and declares to said Mortgagee that the title to said real estate is in Mortgagor's own right, and that the representations herein made as to title and encumbrances are so made with the intent and for the purpose of inducing this loan.

Mortgagor further cially waives all exemptions which h. tgagor now or hereafter may be entitled to under the Constitution and Laws of the State of Alabama in regard to the collection of the above debt.

Mortgagor further agrees to keep said property insured against fire and windstorm in good and responsible companies acceptable to Mortgagee for not less than \$250,100.00 and have each such policy payable to said Mortgagee, as its interest may appear in said property, and deliver the same to Mortgagee; and should Mortgagor fail to insure said property, then Mortgagee is hereby authorized to do so, and the premiums so paid by Mortgagee shall be and constitute a part of the debt secured hereby.

The Mortgagor herein agrees to pay all taxes and assessments, general or special, levied upon the real estate herein conveyed before the same become delinquent; should Mortgagor fail to pay any such taxes or assessments, then Mortgagee is authorized to do so, and such payments shall thereupon constitute a part of the debt secured hereby.

It is further understood that should the Mortgagor fail to pay said taxes and assessments, or insure the property, as hereinabove stipulated, the Mortgagee may do so, and thereupon declare the whole debt secured by this Mortgage to be due and payable, and proceed to foreclose at once, as hereinabove provided with respect to foreclosure of this mortgage.

IN WITNESS WHEREOF, the undersigned has executed this mortgage this the 25 day of July, 2000.

WITNESS:

(SEAL)

Goff Group, Inc., f/k/a Goff N.B.A., Inc.

John W. Goff, President

STATE OF ALABAMA COUNTY OF MONTGOMERY

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John W. Goff, whose name as President of Goff Group, Inc., f/k/a Goff N.B.A., Ina., is signed to the foregoing document, and who are known to me, acknowledged before me on this day, that, being informed of the contents of said instrument, he, executed the same voluntarily on the day the same bears date.

GIVEN under my hand and official seal this 25 day of July, 2000.

CS VACA

Notary Public
My commission Expires:

Robert B. Crumpton, Jr. Crumpton & Associates, L.L.C. 2000 Interstate Park Drive Montgomery, AL 36109

STATE COLLEGY MONTEOMERY CO. I CERTIFY THIS INSTRUMENT WAS FILED ON 2000 AUG 16 PM 3: 45

REESE MONINMEY, JR. JUDGE OF PROBATE

Case 2:06-cv-00389-MHT-SRW Document 8-2 | led 05/25/ a<del>ge 18 of</del> INC P.O.BOX 310 KA GOFF-N.B.A., INC. UNION SPRINGS, AL. 36089 80 TECHNACENTER DRIVE 80 TECHNACENTER DRIVE MONTGOMERY. AL. 3611 MONTGOMERY, AL. 36117 **GUARANTOR'S NAME AND ADDRESS** LENDER'S NAME AND ADDRESS BORROWER'S NAME AND ADDRESS "You" means the Lender, its successors and assigns "!" includes each guarantor above, jointly and severally. "Borrower" means each person abov **GUARANTY** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce you, at your option, to make loans or engage in any other transactions with borrower from time to time, I absolutely and unconditionally guarantee the full payment of the following debts (as defined herein) when due (whether at maturity or upon acceleration): PRESENT DEBT GUARANTY absolutely and unconditionally guarantee to you the payment and performance of the following described debt (including all renewals, extensions, refinancings and modifications) of the borrower: LOAN #400656501 DATED JULY 25, 2000 PRESENT AND FUTURE DEBT GUARANTY I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you including, but not limited to, the following described debt(s): I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you, up to the principal amount of \$ \_ plus accrued interest, attorneys' fees and collection costs referable thereto (when permitted by law), and all other amounts agreed to be paid under all agreements evidencing the debt and securing the payment of the debt. You may, without notice, apply this guaranty to such debts of the borrower as you may select from time to time. DEFINITIONS - As used in this agreement, the terms "i," "we," and "my" mean all persons signing this guaranty agreement, individually and jointly, and their heirs, DEFINITIONS - As used in this agreement, the terms 1, "we," and "my linear all persons signing and guaranty agreements assigns.

The term "debt" means all debts, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the terms of any notes or agreements securing the payment of any debt, liability or obligation, overdrafts, letters of credit, guaranties, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contrigent, except for any obligations incurred by borrower after the date of this guaranty for which the borrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which, although you require the addition of a guaranty, the borrower chooses someone other APPLICABLE LAW - This agreement is governed by the law of the state in which you are located. Any term of this agreement that does not comply with applicable law will not be effective if that law does not expressly or impliedly permit variations by agreement. If any part of this agreement cannot be enforced cording to its terms, this fact will not affect the balance of this agreement. REVOCATION - I agree that this is an absolute and continuing guaranty. If this guaranty is limited to the payment of a specific debt of the borrower described above, this agreement cannot be revoked and will remain in effect until the debt is paid in full. If this guaranty covers both the borrower's present and future debts, I agree that this guaranty will remain binding on me, whether or not there are any debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence. Notice of revocation or notice of my death or incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such debts. I you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such debts. I agree that if any other person signing this agreement provides a notice of revocation to you, I will still be obligated under this agreement until I provide a notice of revocation to you. If any other person signing this agreement dies or is declared incompetent, such fact will not affect my obligations under this agreement.

OBLIGATIONS INDEPENDENT - I agree that I am obligated to pay according to the terms of this guaranty even if any other person has agreed to pay the borrower's debt. My obligation to pay according to the terms of this guaranty shall not be affected by the illegality, invalidity or unenforceability of any notes or agreements evidencing I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law in such situations my obligation shall include not be not become. I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law. In such situations, my obligation shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's indebtedness due to borrower's elective to borrower's elective to pay you, to the fullest extent permitted by law, any deficiency remaining after foreclosure of any mortgage or security interest security interest payments by borrower's debt, whether or not the liability of borrower or any other obligor for such deficiency is discharged by statute or judicial decision. If any payments by borrower to you are thereafter set aside, recovered, rescinded, in whole or in part, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason (including, without limitation, the bankruptcy, insolvancy, or recoveralization of borrower or any other obligical, then I are payments by borrower to you are thereafter set aside, recovered, rescinded, in whole or in pan, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of borrower or any other obligor), then I am obligated to relimburse or indemnify you for the full amount you so pay together with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated principal amount (plus other agreed charges), you may allow the borrower to incur debt in excess of the specified amount and apply to the payment of such excess any amounts you receive for payment of the debt from the borrower or any other person, excess of the specified amount and apply to the payment of social excess any amounts you receive for payment of the controller some any amounts resulting from any collateral, or amounts received from any other source, without affecting my obligations under this agreement. any amounts resulting from any collateral, or amounts received from any other source, without affecting my obligations under this agreement.

No modification of this agreement is effective unless in writing and signed by you and me, except that you may, without notice to me and without the addition of a signed writing or my approval; (1) release any borrower or other person who may be liable for borrower's debt, (2) release or substitute any collateral, (3) fall to perfect any security interest or otherwise impair any collateral, (4) wave or impair any right you may have against any borrower or other person who may be liable for the borrower's debt, (6) procure any additional security or persons who agree to be liable for borrower's debt, (7) delay or fall to pursue enforcement of the debt, (8) apply amounts you receive from the borrower or other persons to payment of the debt in any order you select, (9) make any election with respect to the debt provided by law or any agreement with any person liable for the debt, (10) exercise or fail to exercise any rights you have with respect to the debt, (11) extend new credit to the borrower, or (12) renew, extend, refinance or modify the borrower's debt on any terms agreed to by you and the borrower (including, but not limited to, changes in the interest rate or in the method, time, place or amount of payment) without affecting my obligation to pay under this quaranty. WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by law, all WAIVER - I walve presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also walve, to the extent permitted by law, all notices, all defenses and claims that the borrower could assert, any right to require you to pursue any remedy or seek payment from any other person before seeking payment under this agreement, and all other defenses to the debt, except payment in full. You may without notice to me and without my consent, enter into agreements with the borrower from time to time for purposes of creating or continuing the borrower's debt as allowed by this guaranty. I agree that I will be liable, to borrower's obligation to pay such deficiency remaining after foreclosure (or repossession) and sale of any collateral without regized to whether insolvency, bankruptcy or reorganization of the borrower, my obligations under this agreement will continue as if such payments had never been made. I also waive and relinquish all present and future claims, rights, and remedies against borrower or any other obligated party arising out of the creation or my performance of this guaranty. My waiver includes, but is not limited to, the right of contribution, reimbursement, indemnification, subrogation, exoneration, and any right to participate in any claim or remedy you may have against the borrower, collateral, or other party obligated for borrower's debts, whether or not such claim, remedy, or right arises in equity, or under contract, statute or common law. remedy, or night arises in equity, or under contract, statute or common law.

REMEDIES - If I fall to keep any promise contained in this agreement or any agreement securing this agreement, you may, make this agreement and the borrower's debt immediately due and payable, you may set-off this obligation against any right I have to receive money from you (however, you may not set-off against any accounts in which my rights are only as a fiduciary or my IRA or other tax-deferred retirement account), you may use any remedy you have under state or federal law, and you may use any remedy given to you by any agreement securing this agreement. If I die, am declared incompetent, or become insolvent (either because my liabilities exceed my assets or because I am unable to pay my debts as they become due), you may make the debt immediately due and payable. COLLECTION COSTS - Except when prohibited by law, I agree to pay the reasonable costs and expenses you incur to enforce and collect this agreement, SECURITY - This guaranty is Kunsecured secured by **NOTICE TO COSIGNER** In witness whereof, I have signed my name and affixed my seal on this 25th da You are being asked to guarantee the debts described above. If you are making a "Present and Future Debt Guaranty" as identified above, you are being asked to guarantee present as well as future debts of the borrower entered into with this lender. Think carefully before you do. If the borrower doesn't pay these debts, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility. You may have to pay up to the full amount of these debts if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount. The lender can collect these debts from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, gamishing your wages, etc. If these debts are ever in default, that fact may become part of your credit record.

of JULY	, <u>2000</u> , and, by d	oing on arrest
the terms of this guaranty and	acknowledge having read the Notic	e to Cosigner.
x Le		
JOHN W. GOEF	<del></del>	(SEAL)
//		(SEAL)
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	- <del></del>	(SEAL)
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		(SEAL)

Document 8-2 Filed 05/25/2006 Case 2:06-cv-00389-MHT-SRW Page 19 of 33 GOFF GROUP, INC. 400656502 80 TECHANCENTER DRIVE Loan Number Community Bank & Trust 12/26/01 MONTGOMERY AL 36117 Date P O Box 310 12/25/06 **Maturity Date** 648915.24 Union Springs, AL 36089 Loan Amount \$ 400656501 Renewal Of LENDER'S NAME AND ADDRESS BORROWER'S NAME AND ADDRESS I" includes each borrower above, jointly and severally. "You" means the lender, its successors and assigns. 63-1078035 or value received, i promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of \_ IX HUNDRED FORTY EIGHT THOUSAND NINE HUNDRED FIFTEEN ANDOIGAS/4.00 648915.24 Single Advance: I will receive all of this principal sum on 12/26/01. No additional advances are contemplated under this note. I Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On I will receive the amount of \$ \_ and future principal advances are contemplated. Conditions: The conditions for future advances are Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions). TTEREST: I agree to pay interest on the outstanding principal balance from  $\frac{12/26/01}{1}$ at the rate of 6.250 % per year until \_  $\overline{\mathbf{Q}}$  Variable Rate: This rate may then change as stated below. Index Rate: The future rate will be 1.500% ABOVE the following Index rate: WALL STREET JOURNAL PRIME No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control. Frequency and Timing: The rate on this note may change as often as <u>daily</u> A change in the interest rate will take effect same day as prime changes Limitations: During the term of this loan, the applicable annual interest rate will not be more than % or less than %. The rate may not change more than \_\_\_\_ \_ % each Effect of Variable Rate: A change in the Interest rate will have the following effect on the payments: ☐ The amount of each scheduled payment will change. XX The amount of the final payment will change. CCRUAL METHOD: Interest will be calculated on a \_\_\_\_ actual/365 OST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, and until paid in full, as stated below: 🖾 on the same fixed or variable rate basis in effect before maturity (as indicated above). at a rate equal to LATE CHARGE: If a payment is made more than \_\_\_\_\_10 \_days after it is due, I agree to pay a late charge of 5% of payment the but not less than \$10.00 & not more than \$100.00 ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which are are not included in the principal amount above: PROCESSING FEE \$250.00 AND ORIGINATION FEE \$420.00 AYMENTS: I agree to pay this note as follows: Interest: I agree to pay accrued interest Principal: I agree to pay the principal Installments: I agree to pay this note in \_ payments. The first payment will be in the amount of \$ 7500.00 and will be due January 2002 . A payment of \$\_ 7500.00 \_will be due <u>on</u> the 25th day of each month the eafter. The final payment of the entire unpaid balance of principal and interest will be due \_ December 25, DDITIONAL TERMS: SECURITY: This note is separately secured by (describe separate document by type and date): PURPOSE: The purpose of this loan is BUSINESS: RENEWAL OF CONSLIDATION LOAN & BUSI "AS PER SECURITY AGREEMENT SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING DATED DECEMBER 26, 2001" THOSE ON PAGE 2). I have received a copy on today's date. (This saction is for your internal use. Failure to list a separat agreement will not secure this note.) CAUTION - IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS CONTRACT BEFORE YOU SIGN IT. DISPOSITION OF FUNDS Deposited to Account Number Check Number MHOL 63-1078035 ignature for Landa

Case 2:06-cv-00380-MHT-SRW Document 8-2 Filed this loan. "I," "me" or "my" means each B& rower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and assigns. APPLICABLE LAW: The law of the state of Alabams will govern this note. Any term of this note which is contrary to applicable law will not be effectly in usees the law correlated to a population.

effective, unless the law permits you and me to agree to such a variation. effective, unless the law permits you and his to agree to addit a variation, if any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this agreement. No modification of this note or any agreement securing this note is effective unless the modification is in writing and signed by you Time is of the essence in this agreement.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. You and I may provide in this agreement for accrued interest not paid when due to be added to principal. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me. INDEX RATE: The index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the Interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated than you may use any reasonable accrual method for method is stated, then you may use any reasonable accrual method for calculating interest

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or

date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier.

SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below, or if we we have agreed that accrued interest not paid when due may be added to principal.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit

closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: if you are authorized to pay, on my bahalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

(1) any deposit account balance I have with you;

(2) any money owed to me on an item presented to you or in your possession for collection or exchange; and

(3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation at to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a rapresentative. It also does not apply to any individual Retirement my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any individual Retirement Account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

ENCE SECURITY: If this note is secured by re REAL ESTATE OR I

REAL ESTATE OR I SENCE SECURITY: If this note is secured by re estate or a residence treat is personal property, the existence of a default and your remedles for such a default will be determined by applicablew, by the terms of any separate instrument creating the securint interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" at "Remedles" peragraphs herein.

DEFAULT: I will be in default if any one or more of the following occi (1) I fall to make a payment on time or in the amount due; (2) I fall keep the property insured, if required; (3) I fall to pay, or keep a promise, on any debt or agreement I have with you; (4) any other credit of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities e cead my assets or i am unable to pay my debts as they become due); I make any written statement or provide any financial information that untrue or inaccurate at the time it was provided; (7) I do or fail to comething which causes you to believe that you will have difficult collecting the amount I owe you; (8) any collateral securing this note used in a manner or for a purpose which threatens confiscation by a leg suthority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fail to plant, cultivate and harvest crops in due season; (11) any loan proceeds are use for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural common land, as further explained in 7 C.F.R. Part 1940, Subpart G. Exhibit M. REMEDIES: If I am in default on this note you have, but are not limited the following remedies:

(1) You may demand immediate payment of all I owe you under the

(1) You may demand immediate payment of all I owe you under th note (principal, accrued unpaid interest and other accrued charges
(2) You may set off this debt against any right I have to the paymen of money from you, subject to the terms of the "Set-off" paragraphers.

You may demand security, additional security, or additional partic to be obligated to pay this note as a condition for not using a

You may refuse to make advances to me or allow purchases of

(4) You may refuse to make advances to me or allow purchases ( credit by me.

(5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up yo right to later use any other remedy. By waiving your right to later onesider it event to be a default, you do not waive your right to later consider it event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs collection, replevin or any other or similar type of cost if I am in defau in addition, if you hire an attorney to collect this note, I also agree to prohibited by law). To the extent permitted by the United Stat Bankruptcy Code, I also agree to pay the reasonable attorney's fees at costs you incur to collect this debt as awarded by any court exercisi jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will n require you to:

require you to:
(1) demand payment of amounts due (presentment);
(2) obtain official certification of nonpayment (protest); or
(2) obtain official certification of nonpayment (protest); or (3) give notice that amounts due have not been paid (notice dishonor).

(2) obtain official certification or nonpayment (protest); or (3) give notice that amounts due have not been paid (notice dishonor).

I waive any defenses I have based on suretyship or impairment collateral. To the extent permitted the law, I also waive all persor property exemptions in the property securing this loen.

OBLIGATIONS INDEPENDENT: I understand that I must pay this no even if someone else has also agreed to pay it (by, for exemple, signit this form or a separate guarantee or endorsement). You may sue raione, or anyone else who is obligated on this note, or any number of together, to collect this note. You may do so without any notice that has not been paid (notice of dishonor). You may without notice relea any party to this agreement without releasing any other party. If you gi up any of your rights, with or without notice, it will not affect my duty pay this note. Any extension of new credit to any of us, or renewal this note by all or less than all of us will not release me from my duty pay it. (Of course, you are entitled to only one payment in full.) agritant you may at your option extend this note or the debt represented this note, or any portion of the note or debt, from time to time without incitic and for any term without affecting my liability for payme of the note. I will not assign my obligation under this agreement without your prior written approval.

CREDIT INFORMATION: I agree and authorize you to obtain creinformation about me from time to time (for exemple, by requesting credit report) and to report to others your credit experience with me (su as a credit reporting agency). I agree to provide you, upon request, a financial statement or information you may deem necessary. I warrathat the financial statements and information I provide to you are or v be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall given by delivering it or by mailing it by first class mail addressed to r at my last known address. My current address is on page 1. I

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S (NITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST	INTEREST PAYMENTS	INTEREST PAID THROUGH:
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0.00 =.00 0	GOFF GROUP, INC.	4		<u></u>	LAW To
	FKA GOFF N.B.A., INC.				Loan Number -92203019
	80 TECHANCENTER DRIVE			Bank & Trust	Date 9/17/03
	MONTGOMERY AL 36117		P O Box 31		Maturity Date 9/25/06
		İ	oniton apri	lngs, AL 36089	Loan Amount \$ 420039.36 Renewal Of 400656502
	BORROWER'S NAME AND A	DDRESS	LENDER'S	NAME AND ADDRESS	
	<del></del>				
	FOUR HUNDRED TWENTY THOS	you, or your orde USAND THIRT	or, et your address !! Y NINE AND 36	sted above the PRINCIPAL sum	420039.36
	Single Advance: I will receive all o	f this principal sur	$n \circ n = 9/17/0$	) 3 . No additional	advances are contemplated under this note
		ım shown above Is	the maximum amo	ount of principal I can borrow ur	der this note. On
	Conditions: The conditions for f	i will receive the	e amount of \$	and	future principal advances are contemplated.
		—————	·		
	Open End Credit: You and I all other conditions and e				ore than one time. This feature is subject to
	Closed End Credit: You and	I agree that I may	borrow up to the m	naximum only one time (and sub	plact to all other conditions)
	INTEREST: I agree to pay interest on t	the outstanding pri	incipal balance from	9/17/03	at the rate of 5.500 %
	per year until	change as stated	holow	•	
	Index Rate: The future rate	will be 1.500%	ABOVE	the following index rate:	
	WALL STR JRN-DAILY				
	☐ No Indexs The feature rate w				
	No Index: The future rate w	rate on this note :	o any internal or exi may change as ofte	ternal index. It will be entirely in n as dailv	your control.
	A change in the interest r	rate will take effec	t same day	as prime change	s
	Limitations: During the term	of this loan, the	applicable annual in	terest rate will not be more tha	% or less than
	Effect of Variable Rate: A change	%. The rate may r	not change more the	en % e	ach
	The amount of each schedu	led payment will o	hange.	The amount of the final parts:	ayment will change.
4	Li				-
	ACCRUAL METHOD: Interest will be c POST MATURITY RATE: I agree to pay	elculated on a	actual/3	65 bas	is.
	€ on the same fixed or variable	e rate basis in effe	oct before maturity (	s note owing after maturity, an las indicated above).	I until paid in full, as stated below:
	L at a rate equal to				
	X LATE CHARGE: If a payment is me 5% of payment due i	ede more than	10 days a	after it is due, I agree to pay a la	ite charge of
	ADDITIONAL CHARGES: In addition	on to interest. I so	ree to pay the follow	wing charges which 187 are	are not included in the principal amount
	above: HOAN FEE 5200	J.UU AND E	ROCESSING	FEE \$275.00	→ are not included in the principal amount
	PAYMENTS: I agree to pay this note at Interest: I agree to pay accrued into			e .	-
	merest i agree to pay accided into	erest		water Williams	
	Principal: I agree to pay the princip	oal	Daymants The tie	The same of the sa	Šģira,
	installments: I agree to pay this no	te in 36		The state of the s	
	and will be due Octob		payments* The fir	activity min no in the study	nt of \$\\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
	day of each mont	5/9			thereafter. The inal payment of the entire
	unpaid balance of principal and in ADDITIONAL TERMS:	nterest will be du	Sext emb	er 25, 2006	
	ADDITIONAL TERMS.			110 04	1 12
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				N HO/	A. Carlotte and the second sec
			1-1	1 /	this loan is BUSINESS: RENEWAT.
		1	/ l		The state of the s
	SECURITY: This note is separat		<del></del>		N. S.
	document by type and date):	tory secured by	Idescribe separate	OF CONSOLIDATION	
·	"AS PER SECURITY AGR DATED SEPTEMBER 17,	EEMENT ***	West and the second sec	SIGNATURES:   AGREE TO	THE TERMS OF THIS NOTE (INCLUDING
	(This section is for your internal use. Failure to list.	2003"	AND THE PERSON NAMED IN	THOSE ON PAGE 2). I have	received a copy on today's date.
į	agreement will not secure this noteJ		ment does not mash the	CAUTION - IT IS IMPORTA	MT THAT YOU THOROUGH Y SELECTION
Г	DISPOSITION OF FINISH	-			IGN IT. FKA GOFF N.B.A.INC
	DISPOSITION OF FUNDS				
	Deposited to Account Number	······································	Check Number	JOHN W. GOFF, PRE	
5	Signature for Lender			JOHN W. GOFF, PRE	SIDENT 63-1078035
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-	- Jan Man	<del></del>		,	
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	INITION AL NICET				•
L B	JNWERSAL NOTE DETEM • 1984, 1991 Bankers Systems, Inc.,	St. Cloud. MN Form 118	N-AL 3/4/2002	<del></del>	,
	1/		······································		(page 1 of 2)

other remuneration.
In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or caid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay apart of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

contrary).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. You and I may provide in this agreement for accrued interest not paid when due to be added to principal. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that is higher than the maximum rate of interest you could charge under applicable law for the extension of credit that is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The Index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of Interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating interest.

method is stated, then you may use any reasonable accrual method in calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier. SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below, or if we we have agreed that accrued interest not paid when due may be added to principal.

principal.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and I expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to

expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

(1) any deposit account balance I have with you;

(2) any money owed to me on an Item presented to you or In your possession for collection or exchange; and

(3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you preparty accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other tax-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims arising as a result of your exercise of your right of set-off.

8-2 Filed 05/25/2006 NCE SECURITY: If this note is secured by real Document 8-2 REAL ESTATE OR RI

REAL ESTATE OR RI INCE SECURITY: If this note is secured by real estate or a residence is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) I fall to make a payment on time or in the amount due; (2) I fall to keep the property insured, if required; (3) I fall to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) benefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (8) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fall to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a manner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fall to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M. REMEDIES: If I am in default on this note you have, but are not limited to, the following remedies:

the following remedies:

(1) You may demand immediate payment of all I owe you under this

note (principal, accrued unpaid interest and other accrued charges).

(2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-off" paragraph

You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any

(4) You may refuse to make advances to me or allow purchases on

creat by me.

(5) You may use any remedy you have under state or federal law.

By selecting any one or more of these remedies you do not give up your right to later use any other remedy. By waiving your right to declare an event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of

COLLECTION COSTS AND ATTORNEY'S FEES: I agree to pay all costs of collection, replevin or any other or similar type of cost if I am in default, in addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except where prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees and costs you incur to collect this debt as awarded by any court exercising jurisdiction under the Bankruptcy Code.

WAIVER: I give up my rights to require you to do certain things. I will not require you to:

demand payment of amounts due (presentment);

(2) obtain official certification of nonpayment (protest); or

(3) give notice that amounts due have not been paid (notice of dishonor).

dishonor).

I waive any defenses I have based on suretyship or impairment of collateral. To the extent permitted by law, I also waive all personal property exemptions in the property securing this loan.

OBLIGATIONS INDEPENDENT: I understand that I must pay this note even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue me alone, or anyone else who is obligated on this note, or any number of us together, to collect this note. You may do so without any notice that it has not been paid (notice of dishonor). You may without notice release any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without that you may at your option extend this note or the debt represented by this note, or any portion of the note or debt, from time to time without limit or notice and for any term without affecting my liability for payment of the note. I will not assign my obligation under this agreement without your prior written approval.

FINANCIAL INFORMATION: I agree to provide you, upon request, any financial statement or information you may deem necessary. I warrant that the financial statements and information I provide to you are or will be required correct and complete.

accurate, correct and complete. be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by first class mail addressed to me at my last known address. My current address is on page 1. I agree to inform you in writing of any change in my address. I will give any notic to you by mailing it first class to your address stated on page 1 of this agreement, or to any other address that you have designated.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S (NITIALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
	\$		\$	\$ .	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
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	\$		\$	8	%	\$	
	\$		\$	\$	%	\$	<u> </u>

Case 2:06-cv-00389-MHT-SRW Filed 05/25/2006 Document 8-2 GOFF GROUP, INC. 80 TECHNACENTER DR 70010801 MONTGOMERY AL 36117-6028 Community Bank & Trust Date 10/15/04 P O Box 310 1/18/05 Maturity Date Union Springs, AL 36089 406723.99 Loan Amount 9 401384301 Renewal Of 400808205 **BORROWER'S NAME AND ADDRESS** LENDER'S NAME AND ADDRESS
"You" means the lender, its successors and assigns. I" includes each borrower above, jointly and severally. 63-1078035 or value received, I promise to pay to you, or your order, at your address listed above the PRINCIPAL sum of OUR HUNDRED SIX THOUSAND SEVEN HUNDRED TWENTY THREE ANDDOG 100 406723.99 Single Advance: I will receive all of this principal sum on \_\_10/15/04\_ . No additional advances are contemplated under this note. I Multiple Advance: The principal sum shown above is the maximum amount of principal I can borrow under this note. On \_I will receive the amount of \$ and future principal advances are contemplated. Conditions: The conditions for future advances are Open End Credit: You and I agree that I may borrow up to the maximum amount of principal more than one time. This feature is subject to all other conditions and expires on Closed End Credit: You and I agree that I may borrow up to the maximum only one time (and subject to all other conditions). ITEREST: I agree to pay interest on the outstanding principal balance from \_\_\_\_10/15/04 at the rate of per year until paid in full ☐ Index Rate: The future rate will be \_ the following index rate: No Index: The future rate will not be subject to any internal or external index. It will be entirely in your control. Frequency and Timing: The rate on this note may change as often as \_ A change in the Interest rate will take effect Limitations: During the term of this loan, the applicable annual interest rate will not be more than % or less than \_ %. The rate may not change more than \_ % each Effect of Variable Rate: A change in the interest rate will have the following effect on the payments: The amount of each scheduled payment will change. The amount of the final payment will the angel CCRUAL METHOD: Interest will be calculated on a \_ actual/365 OST MATURITY RATE: I agree to pay interest on the unpaid balance of this note owing after maturity, a as stated below: on the same fixed or variable rate basis in effect before maturity (as indicated above). at a rate equal to LATE CHARGE: If a payment is made more than \_ 10 days after it is due, I agree to pay a late charge of 5% of payment, with a min. of \$10.00 and max. of \$100.00 ADDITIONAL CHARGES: In addition to interest, I agree to pay the following charges which 🛣 are 🔲 are not included in the principal amount above: \*\* SEE ADDITIONAL TERMS FOR CHARGES INCLUDED IN THE PRINCIPAL AYMENTS: I agree to pay this note as follows: Interest: I agree to pay accrued interest on the 18th day of each month beginning 11/18/04 at maturity Principal: I agree to pay the principal 1/18/05. on Installments: I agree to pay this note in \_ payments. The first payment will be in the amount of \$ and will be due . A payment of \$ will be due thereafter. The final payment of the entire unpaid balance of principal and interest will be due **DDITIONAL TERMS:** \*\* \$31.75 RECORDING FEE, \$8.50 MORTGAGE RELEASE FEE, \$22.00 FLOOD SEARCH, \$150.00 LOAN FEE 🛣 SECURITY: This note is separately secured by (describe separate locument by type and date): PURPOSE: The purpose of this loan is BUSINESS: RENEWAL OF BUSINESS NOTE AND OTHER AS PER SECURITY AGREEMENT SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING

SECURITY: This note is separately secured by (describe separate locument by type and date):

AS PER SECURITY AGREEMENT
DATED 10/15/2004
This section is for your internal use. Failure to list a separate security document does not mean the greament will not secure this note.)

DISPOSITION OF FUNDS

Deposited to Account Number

Check Number

OF BUSINESS NOTE AND OTHER

SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDING THOSE ON PAGE 2). I have received a copy on today's date.

CAUTION - IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS CONTRACT BEFORE YOU SIGN IT.

GOFF GROUP, INC.

JOHN W GOFF PRE

PRESIDENT

NIVERSAL NOTE 1984, 1991 Bankers Systems, Inc., St. Cloud, MN Form UN-AL 3/4/2002

DEFINITIONS: As used on page 1, "Z" me the terms that apply to this loan. "I," me or my" means each Boilower who signs this note and each other person or legal entity (including guarantors, endorsers, and sureties) who agrees to pay this note (together referred to as "us"). "You" or "your" means the Lender and its successors and sasigns. APPLICABLE LAW: The law of the state of Alabama will govern this note. Any term of this note which is contrary to applicable law will not be effective, unless the law permits you and me to agree to such a variation. If any provision of this agreement cannot be enforced according to its terms, this fact will not affect the enforceability of the remainder of this note is effective unless the modification is in writing and signed by you and me. Time is of the essence in this agreement. Commissions of the essence in this agreement. Commissions of this note will involve money retained by you or paid back to you as commissions or other remuneration.

other remuneration

other remuneration.

In addition, I understand and agree that some other payments to third parties as part of this note may also involve money retained by you or paid back to you as commissions or other remuneration.

PAYMENTS: Each payment I make on this note will first reduce the amount I owe you for charges which are neither interest nor principal. The remainder of each payment will then reduce accrued unpaid interest, and then unpaid principal. If you and I agree to a different application of payments, we will describe our agreement on this note. I may prepay a part of, or the entire balance of this loan without penalty, unless we specify to the contrary on this note. Any partial prepayment will not excuse or reduce any later scheduled payment until this note is paid in full (unless, when I make the prepayment, you and I agree in writing to the contrary).

(unless, when I make the prepayment, you and I agree in writing to the conterty).

INTEREST: Interest accrues on the principal remaining unpaid from time to time, until paid in full. If I receive the principal in more than one advance, each advance will start to earn interest only when I receive the advance. The interest rate in effect on this note at any given time will apply to the entire principal advanced at that time. You and I may provide in this agreement for accrued interest not paid when due to be added to principal. Notwithstanding anything to the contrary, I do not agree to pay and you do not intend to charge any rate of interest that Is ligher than the maximum rate of interest you could charge under applicable law for the extension of credit that Is agreed to here (either before or after maturity). If any notice of interest accrual is sent and is in error, we mutually agree to correct it, and if you actually collect more interest than allowed by law and this agreement, you agree to refund it to me.

INDEX RATE: The Index will serve only as a device for setting the rate on this note. You do not guarantee by selecting this index, or the margin, that the rate on this note will be the same rate you charge on any other loans or class of loans to me or other borrowers.

ACCRUAL METHOD: The amount of interest that I will pay on this loan will be calculated using the interest rate and accrual method stated on page 1 of this note. For the purpose of interest calculation, the accrual method will determine the number of days in a "year." If no accrual method is stated, then you may use any reasonable accrual method for calculating Interest.

POST MATURITY RATE: For purposes of deciding when the "Post

method is stated, then you may use any reasonable accrual method for calculating interest.

POST MATURITY RATE: For purposes of deciding when the "Post Maturity Rate" (shown on page 1) applies, the term "maturity" means the date of the last scheduled payment indicated on page 1 of this note or the date you accelerate payment on the note, whichever is earlier. SINGLE ADVANCE LOANS: If this is a single advance loan, you and I expect that you will make only one advance of principal. However, you may add other amounts to the principal if you make any payments described in the "PAYMENTS BY LENDER" paragraph below, or if we we have agreed that accrued interest not paid when due may be added to principal.

MULTIPLE ADVANCE LOANS: If this is a multiple advance loan, you and i expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to

expect that you will make more than one advance of principal. If this is closed end credit, repaying a part of the principal will not entitle me to additional credit.

PAYMENTS BY LENDER: If you are authorized to pay, on my behalf, charges I am obligated to pay (such as property insurance premiums), then you may treat those payments made by you as advances and add them to the unpaid principal under this note, or you may demand immediate payment of the charges.

SET-OFF: I agree that you may set off any amount due and payable under this note against any right I have to receive money from you.

"Right to receive money from you" means:

(1) any deposit account balance I have with you;

(2) any money owed to me on an item presented to you or in your possession for collection or exchange; and

(3) any repurchase agreement or other nondeposit obligation.

"Any amount due and payable under this note" means the total amount of which you are entitled to demand payment under the terms of this note at the time you set off. This total includes any balance the due date for which you properly accelerate under this note.

If my right to receive money from you is also owned by someone who has not agreed to pay this note, your right of set-off will apply to my interest in the obligation and to any other amounts I could withdraw on my sole request or endorsement. Your right of set-off does not apply to an account or other obligation where my rights are only as a representative. It also does not apply to any individual Retirement Account or other tex-deferred retirement account.

You will not be liable for the dishonor of any check when the dishonor occurs because you set off this debt against any of my accounts. I agree to hold you harmless from any such claims erising as a result of your exercise of your right of set-off.

REAL ESTATE OR REDUENCE SECURITY: If this note is secured by real estate or a residence that is personal property, the existence of a default and your remedies for such a default will be determined by applicable law, by the terms of any separate instrument creating the security interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and

interest and, to the extent not prohibited by law and not contrary to the terms of the separate security instrument, by the "Default" and "Remedies" paragraphs herein.

DEFAULT: I will be in default if any one or more of the following occur: (1) I fail to make a payment on time or in the amount due; (2) I fail to keep the property insured, if required; (3) I fail to pay, or keep any promise, on any debt or agreement I have with you; (4) any other creditor of mine attempts to collect any debt I owe him through court proceedings; (5) I die, am declared incompetent, make an assignment for the paragraph of products or become insolvent feither hecuse my liabilities exbenefit of creditors, or become insolvent (either because my liabilities exceed my assets or I am unable to pay my debts as they become due); (6) I make any written statement or provide any financial information that is untrue or inaccurate at the time it was provided; (7) I do or fall to do untrue or inaccurate at the time it was provided; (/) I do or fall to do something which causes you to believe that you will have difficulty collecting the amount I owe you; (8) any collateral securing this note is used in a menner or for a purpose which threatens confiscation by a legal authority; (9) I change my name or assume an additional name without first notifying you before making such a change; (10) I fall to plant, cultivate and harvest crops in due season; (11) any loan proceeds are used for a purpose that will contribute to excessive arcains of blobby crodible for a purpose that will contribute to excessive erosion of highly erodible land or to the conversion of wetlands to produce an agricultural commodity, as further explained in 7 C.F.R. Part 1940, Subpart G, Exhibit M. REMEDIES: If I am in default on this note you have, but are not limited to, the following remedies:

(1) You may demand immediate payment of all I owe you under this note (principal, accrued unpaid interest and other accrued charges).
(2) You may set off this debt against any right I have to the payment of money from you, subject to the terms of the "Set-off" paragraph

You may demand security, additional security, or additional parties to be obligated to pay this note as a condition for not using any other remed

(4) You may refuse to make advances to me or allow purchases or

(4) You may refuse to make advances to me or allow purchases or credit by me.

(5) You may use any remedy you have under state or federal law. By selecting any one or more of these remedies you do not give up you right to later use any other remedy. By waiving your right to declare ar event to be a default, you do not waive your right to later consider the event as a default if it continues or happens again.

COLLECTION COSTS AND ATTORNEY'S FEES: lagree to pay all costs or the property of the part of the part of the part in default.

collection, replevin or any other or similar type of cost if i am in default in addition, if you hire an attorney to collect this note, I also agree to pay any fee you incur with such attorney plus court costs (except when prohibited by law). To the extent permitted by the United States Bankruptcy Code, I also agree to pay the reasonable attorney's fees an costs you incur to collect this debt as awarded by any court exercising

jurisdiction under the Bankruptcy Code.
WAIVER: I give up my rights to require you to do certain things. I will no

require you to:

(1) demand payment of amounts due (presentment);

(2) obtain official certification of nonpayment (protest); or
 (3) give notice that amounts due have not been paid (notice o dishonor).

I walve any defenses I have based on suretyship or impairment o collateral. To the extent permitted by law, I also waive all persons property exemptions in the property securing this loan.

OBLIGATIONS INDEPENDENT: I understand that I must pay this not

obstigations indertendent: Inderstand that I must pay institute of even if someone else has also agreed to pay it (by, for example, signing this form or a separate guarantee or endorsement). You may sue malone, or anyone else who is obligated on this note, or any number of u together, to collect this note. You may do so without any notice that has not been paid (notice of dishonor). You may without notice releasing any party to this agreement without releasing any other party. If you give the party to this agreement without releasing any other party. If you give any party to this agreement without releasing any other party. If you give up any of your rights, with or without notice, it will not affect my duty to pay this note. Any extension of new credit to any of us, or renewal of this note by all or less than all of us will not release me from my duty to pay it. (Of course, you are entitled to only one payment in full.) I agree that you may at your option extend this note or the debt represented be this note, or any portion of the note or debt, from time to time without imit or notice and for any term without affecting my liability for paymer of the note. I will not assign my obligation under this agreement without property price written approval.

your prior written approval.

FINANCIAL INFORMATION: I agree to provide you, upon request, an financial statement or information you may deem necessary. I warrar that the financial statements and information I provide to you are or w be accurate, correct and complete.

NOTICE: Unless otherwise required by law, any notice to me shall t given by delivering it or by mailing it by first class mail addressed to m at my last known address. My current address is on page 1. I agree 1 inform you in writing of any change in my address. I will give any notic to you by mailing it first class to your address stated on page 1 of th agreement, or to any other address that you have designated.

DATE OF TRANSACTION	PRINCIPAL ADVANCE	BORROWER'S INIT(ALS (not required)	PRINCIPAL PAYMENTS	PRINCIPAL BALANCE	INTEREST RATE	INTEREST PAYMENTS	INTEREST PAID THROUGH:
	\$		\$	9	%	\$	
	\$		\$	8	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
	\$		\$	\$	%	\$	
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	\$		\$	8	%	\$	

γ Filed 05/25/2006

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GOFF GROUP, INC.			DGB
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MONIGOMERI ALI 36117-6026	P O Box 310	ik & irust	Maturity Date 3/15/08
·	Union Springs	3, AL 36089	Loan Amount \$ 406873.99
DODDOWSDIO NAME AND ADDDOG	I TUDENO MA	HT AND ADDDESS	Renewal Of
BORROWER'S NAME AND ADDRESS  Includes each borrower above, jointly and severally.		ME AND ADDRESS , its successors and assigns.	63-1078035
r value received, I promise to pay to you, or your ord			f
OUR HUNDRED SIX THOUSAND EIGHT HU.  Single Advance:   will receive all of this principal su			406873.99
i Single Advance: I will receive all of this principal su Multiple Advance: The principal sum shown above I			
			uture principal advances are contemplated.
Conditions: The conditions for future advances a	re	<del></del>	
	······································		
Open End Credit: You and I agree that I may	borrow up to the maxing	num amount of principal mor	e than one time. This feature is subject to
all other conditions and expires on  Closed End Credit: You and I agree that I ma			
Closed End Credit: You and I agree that I ma TEREST: I agree to pay interest on the outstanding p	y borrow up to the maxin principal balance from	num only one time (and subjeted 3/04/05	at the rate of 7.500 %
per year until paid in full			
Variable Rate: This rate may then change as stated			
Index Rate: The future rate will be	the	following index rate:	
No index: The future rate will not be subject	•		•
Frequency and Timing: The rate on this note  A change in the interest rate will take effe		•	
Limitations: During the term of this loan, the	applicable annual interes	st rate will not be more than	% or less than
%. The rate may	not change more than _	% ea	ch
Effect of Variable Rate: A change in the interest  The amount of each scheduled payment will			vment will change.
The amount of each scheduled payment will	change.	1 The amount of the mar pay	
CCRUAL METHOD: Interest will be calculated on a	actual/365	basis	
OST MATURITY RATE: I agree to pay interest on the			until paid in full, as stated below:
at a rate equal to	meet before maturity (as i	nuicated above/.	· · · · · · · · · · · · · · · · · · ·
ALATE CHARGE: If a payment is made more than	10 days after	it is due, i agree to pay a lat	te charge of
5% of payment, with a min. of	£ \$10.00 and max	. of \$100.00.	Taxana Included in the minelest amount
ADDITIONAL CHARGES: In addition to Interest, I above: \$50.00 PROCESSING FEE	agree to pay the following	LOAN FEE	are not included in the principal amount
AYMENTS: I agree to pay this note as follows:		<u> </u>	
Interest: I agree to pay accrued interest		······································	
Principal: I agree to pay the principal			
			F000 00
Installments: I agree to pay this note in 36 and will be due April 15, 2	payments. The first p	payment will be in the amoun	nt of \$ 5000.00 0.00 will be due on the 15th
day of each month	.005	. A payment of \$	thereafter. The final payment of the entire
unpaid balance of principal and interest will be o	due Marcl	1 15, 2008	
DDITIONAL TERMS:			
	<del></del>		DYGTNIGG DYNIBNAT
SECURITY: This note is separately secured to document by type and date):	by (describe separate	PURPOSE: The purpose of	this loan is BUSINESS: RENEWAL
AS PER SECURITY AGREEMENT		SIGNATURES: I AGREE TO	O THE TERMS OF THIS NOTE (INCLUDING
DATED 3/4/2005			e received a copy on today's date.
(This section is for your internal use. Failure to list a separate security agreement will not secure this note.)	document does not mean the	CAUTION - IT IS IMPORTA	ANT THAT YOU THOROUGHLY READ THIS <u>SIGN</u> IT.
DISPOSITION OF FUNDS		A. 1/	H Rult
Deposited to Account Number	Check Number	JOHN W GOFF	// PRESIDENT
Signature for Lender			101 1 111
organizatio for correct		1 GW1/	Ty / ndo/ Ly
			'/V /

IVERSAL NOTE • 1984, 1991 Bankers Systems, Inc., St. Cloud, MN Form UN-AL 3/4/2002

(page 1 of 2)

Case 2:06-cv-00389-MHT-SRW Document 8-2 Filed 05/25/2006

GOFF GROUP, INC. 80 TECHNACENTER DR

MONTGOMERY AL 36117-6028

P O Box 310

Community Bank & Trust

401384302 3/04/05 3/15/08 406873.99 Meturity Date Loan Amount \$ 700108011 Renewal Of

BORROWER'S NAME AND ADDRESS
'I" includes each borrower above, jointly and severally.

LENDER'S NAME AND ADDRESS "You" means the lender, its successors and assigns.

Union Springs, AL 36089

63-1078035

OUR HUNDRED SIX THOUSAND EIGHT HUNDRED SEVENTY T	d above the PRINCIPAL sum of
Single Advance: I will receive all of this principal sum on $3/04/05$	
Multiple Advance: The principal sum shown above is the maximum amount	t of principal I can borrow under this note. On
	and future principal advances are contemplated
Conditions: The conditions for future advances are	· · · · · · · · · · · · · · · · · · ·
Open End Credit: You and I agree that I may borrow up to the maxi	imum amount of principal more than one time. This feature is subject to
all other conditions and expires on	· · · · · · · · · · · · · · · · · · ·
Closed End Credit: You and I agree that I may borrow up to the maxi	imum only one time (and subject to all other conditions).
FEREST: I agree to pay interest on the outstanding principal balance from	3/04/05 at the rate of %
Variable Rate: This rate may then change as stated below.	· · · · · · · · · · · · · · · · · · ·
Index Rate: The future rate will be the	e following index rate:
No Index: The future rate will not be subject to any internal or extern	
Frequency and Timing: The rate on this note may change as often a  A change in the interest rate will take effect	s
Limitations: During the term of this loan, the applicable annual interest	
%. The rate may not change more than	% each
Effect of Variable Rate: A change in the interest rate will have the follow	ving effect on the payments:
	The amount of the final payment will change.
CRUAL METHOD: Interest will be calculated on aactual/36	5 basis,
INTERPORT INTERPORT WILL BE CALCULATED ON ACCCULATED OF THIS INTERPORT OF THE THIS INTERPORT OF THIS INTERPORT	note owing after maturity, and until paid in full, as stated below:
in the same fixed or variable rate basis in effect before maturity (as	s Indicated above).
That a rate equal to	
LATE CHARGE: If a payment is made more than days after	er It is due, I agree to pay a late charge of
5% of payment, with a min. of \$10.00 and ma. ADDITIONAL CHARGES: In addition to interest, I agree to pay the following	X. Of \$100.00.
above: \$50.00 PROCESSING FEE AND \$100.00	IOAN FEE
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Interest: I agree to pay accrued interest	
Principal: I agree to pay the principal	
Installments: I agree to pay this note in 36 payments. The first	t payment will be in the amount of \$ 5000.00
and will be dueApril 15, 2005	A payment of \$ 5000.00 will be due on the 15t
day of each month	thereafter. The final payment of the enti-
unpaid balance of principal and interest will be due Marc	th 15, 2008
DDITIONAL TERMS:	
P	
	·
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	·
	· .
区 SECURITY: This note is separately secured by (describe separate	PURPOSE: The purpose of this loan is BUSINESS: RENEWAL
区 SECURITY: This note is separately secured by (describe separate document by type and date):	
区 SECURITY: This note is separately secured by (describe separate document by type and date): AS PER SECURITY AGREEMENT	SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDI
区 SECURITY: This note is separately secured by (describe separate focument by type and date):  AS PER SECURITY AGREEMENT DATED 3/4/2005	SIGNATURES: I AGREE TO THE TERMS OF THIS NOTE (INCLUDI THOSE ON PAGE 2). I have received a copy on today's date.
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Case 2:06-cv-00389-MHT-SRW 05/25/2006 Document 8 Page 27 group, INC. JOHN W. GOFF MMUNITY BANK & TRUST 80 TECHNACENTER DRIVE P.O. BOX 310 TECHNACENTER DRIVE MONTGOMERY, AL. 36117 UNION SPRINGS, AL. 36089 MONTGOMERY, AL. 36117 **GUARANTOR'S NAME AND ADDRESS** LENDER'S NAME AND ADDRESS **BORROWER'S NAME AND ADDRESS** "You" means the Lender, its successors and assigns "Borrower" means each person above "I" includes each quarantor above, jointly and severally. GUARANTY For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce you, at your option, to make loans or engage in any other transactions with borrower from time to time, I absolutely and unconditionally guarantee the full payment of the following debts (as defined herein) when due (whether at maturity or upon acceleration): PRESENT DEBT GUARANTY I absolutely and unconditionally guarantee to you the payment and performance of the following described debt (including all renewals, extensions, refinancings and modifications) of the borrower: PRESENT AND FUTURE DEBT GUARANTY XXII absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you including, but not limited to, the following described debt(s): \_\_LOAN #400656502 DATED DECEMBER 26, 2001 IN THE AMOUNT OF \$648,915.24 🔲 I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower

> may now or at any time in the future owe you, up to the principal amount of \$\_ plus accrued interest, attorneys' fees and collection costs referable thereto (when permitted by law), and all other amounts agreed to be paid under all agreements evidencing the debt and securing the payment of the debt. You may, without notice, apply this guaranty to such debts of the borrower as you may select from time to time. DEFINITIONS - As used in this agreement, the terms "I," "we," and "my" mean all persons signing this guaranty agreement, individually and jointly, and their heirs, executors, administrators and assigns. The term "debit" means all debits, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the terms of any notes or

The term out means all debts, leadings, and objects and a control (another transfer of credit, guaranties, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contingent, except for any obligations incurred by borrower after the date of this guaranty for which the borrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which, aithough you require the addition of a guaranty, the borrower chooses someone other than me to guaranty the obligation.

APPLICABLE LAW - This agreement is governed by the law of the state in which you are located. Any term of this agreement that does not comply with applicable law will not be effective if that law does not expressly or impliedly permit variations by agreement. If any part of this agreement cannot be enforced according to its terms, this fact will not affect the balance of this agreement.

REVOCATION - I agree that this is an absolute and continuing guaranty. If this guaranty is limited to the payment of a specific debt of the borrower described above, this agreement cannot be revoked and will remain in effect until the debt is paid in full. If this guaranty covers both the borrower's present and future debts, I agree that this guaranty will remain binding on me, whether or not there are any debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence.

Notice of revocation or notice of my death or incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such debts. I agree that if any other person signing this agreement provides a notice of revocation to you, I will still be obligated under this agreement until I provide a notice of revocation to you. If any other person signing this agreement dies or is declared incompetent, such fact will not affect my obligations under this agreement.

OBLIGATIONS INDEPENDENT - I agree that I am obligated to pay according to the terms of this guaranty even if any other person has agreed to pay the borrower's debt. My obligation to pay according to the terms of this guaranty shall not be affected by the Illegality, Invalidity or unenforceability of any notes or agreements evidencing

the debt, the violation of any applicable usury laws, forgery, or any other circumstances which make the indebtedness unenforceable against the borrower.

I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law. In such stituations, my obligation shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's indebtedness due to borrower's discharge. I will also be obligated to pay you, to the fullest extent permitted by law, any deficiency remaining after foreclosure of any mortgage or security interest securing borrower's debt, whether or not the liability of borrower or any other obligor for such deficiency is discharged by statute or judicial decision. If any payments by borrower to you are thereafter set aside, recovered, rescinded, in whole or in part, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of borrower or any other obligor), then I am obligated to reimburse or indemnify you for the full amount you so pay together with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my flability is limited to a stated principal amount (plus other agreed charges), you may allow the borrower to incur debt in excess of the specified amount and apply to the payment of such excess any amounts you receive for payment of the debt from the borrower or any other person, any amounts resulting from any collateral, or amounts received from any other source, without affecting my obligations under this agreement.

No modification of this agreement is effective unless in writing and signed by you and me, except that you may, without notice to me and without the addition of a signed writing or my approval; (1) release any borrower or other person who may be liable for borrower's debt, (2) release or substitute any collateral, (3) fall to perfect security interest or otherwise impair any collateral, (4) waive or impair any right you may have against any borrower or other person who may be liable for borrower's debt, (5) settle or compromise any claim against the borrower or any person who may be liable for the borrower's debt, (6) procure any additional security or persons who agree to be liable for borrower's debt, (7) delay or fall to pursue enforcement of the debt, (8) apply amounts you receive from the borrower or other persons to payment of the debt in any order you select, (9) make any election with respect to the debt provided by law or any agreement with any person liable for the debt, (10) exercise or fail terms agreed to by you and the borrower (including, but not limited to, changes in the interest rate or in the method, time, place or amount of payment) without affecting my obligation to pay under this guaranty.

WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by law, all notices, all defenses and claims that the borrower could assert, any right to require you to pursue any remedy or seek payment from any other person before seeking payment under this agreement, and all other defenses to the debt, except payment in full. You may without notice to me and without my consent, enter into agreements with the borrower from time to time for purposes of creating or continuing the borrower's debt as allowed by this guaranty. I agree that I will be liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure (or repossession) and sale of any collateral without regard to whether borrower's obligation to pay such deficiency is discharged by law. If any payments on the debt are set aside, recovered or required to be returned in the event of the

I also waive and relinculated in the determination of the borrower, my obligations under this agreement will continue as if such payments had never been made.

I also waive and relinculsh all present and future claims, rights, and remedies against borrower or any other obligated party arising out of the creation or my performance of this guaranty. My waiver includes, but is not limited to, the right of contribution, reimbursement, indemnification, subrogation, exoneration, and any right to participate in any claim or remedy you may have against the borrower, collateral, or other party obligated for borrower's debts, whether or not such claim, remedy, or right arises in equity, or under contract, statute or common law.

REMEDIES - If I fail to keep any promise contained in this agreement or any agreement securing this agreement, you may, make this agreement and the borrower's debt immediately due and payable, you may set-off this obligation against any right I have to receive money from you (however, you may not set-off against any accounts in which my rights are only as a fiduciary or my IRA or other tax-deferred retirement account), you may use any remedy you have under state or federal law, and you may use any remedy given to you by any agreement securing this agreement. If I die, am declared incompetent, or become insolvent (either because my liabilities exceed my assets or because I am unable to pay my debts as they become due), you may make the debt immediately due and payable.

COLLECTION COSTS - Except when prohibited by law, I agree to pay the reasonable costs and expenses you incur to enforce and collect this agreement,

including attorneys' fees and court costs

NOTICE TO COSIGNER
You are being asked to guarantee the debts described above. If you are making a "Present and Future Debt Guaranty" as identified above, you are being asked to guarantee present as well as future debts of the borrower entered into with this lender. Think carefully before you do. If the borrower doesn't pay those debts, you will have to. Be sure you can afford to pay if you have to, and that you want!

to accept this responsibility. You may have to pay up to the full amount of these debts if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount

The lender can collect these debts from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If these debts are ever in default, that fact may become part of *your* credit record.

In witness whereof, I have signed my name and affixed of	, and, by doing so, agree to
the terms of this guaranty and acknowledge having re-	ad the Notice to Cosigner.
XA Gar 191	(SEAL
JOHN W. GOFF	
	(SEAL
	(SEAL)
	3EAL)

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> JOHN W. GOFF 80 TECHANCENTER DRIVE MONTGOMERY, AL 36117

GUARANTOR'S NAME AND ADDRESS
"I" includes each guarantor above, jointly and severally

Community Bank & Trust P O Box 310 Union Springs, AL 36089 LENDER'S NAME AND ADDRESS
"You" means the Lender, its successors and assigns.

JFF GROUP INC FKA GOFF N.B.A., 80 TECHANCENTER DRIVE MONTGOMERY AL 36117 BORROWER'S NAME AND ADDRESS "Borrower" means each person above.

#### GUARANTY

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce you, at your option, to make loans of
angage in any other transactions with borrower from time to time, I absolutely and unconditionally guarantee the full payment of the following debts (a.
Jefined herein) when due (whether at maturity or upon acceleration):
DECENT COT CHARACTY

🛣 I absolutely and unconditionally guerantee to you the payment and performance of the following described debt (including all renewals, extensions, refinancings and modifications) of the borrower: LOAN #400656503 DATED SEPTEMBER 17, 2003

#### PRESENT AND FUTURE DEBT GUARANTY

l absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you including, but not limited to, the following described debt(s):

🔲 I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you, up to the principal amount of \$\_\_\_\_\_\_\_ plus accrued interest, attorneys' fees and collection costs referable thereto (when permitted by law), and all other amounts agreed to be paid under all agreements evidencing the debt and securing the payment of the debt. You may, without notice, apply this guaranty to such debts of the borrower as you may select from time to time.

DEFINITIONS - As used in this agreement, the terms "I," "we," and "my" mean all persons signing this guaranty agreement, individually and jointly, and The term "debt" means all debts, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the

erms of any notes or agreements securing the payment of any debt, liability or obligation, overdrafts, letters of credit, guaranties, advances for taxes, naurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contingent, except for any obligations incurred by borrower after the date of this guaranty for which the porrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which,

sorrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which, although you require the addition of a guaranty, the borrower chooses someone other than me to guaranty the obligation.

APPLICABLE LAW - This agreement is governed by the law of the state in which you are located. Any term of this agreement that does not comply with applicable law will not be effective if that law does not expressly or impliedly permit variations by agreement. If any part of this agreement cannot be snforced according to its terms, this fact will not affect the balance of this agreement.

REVOCATION - I agree that this is an absolute and continuing guaranty. If this guaranty is limited to the payment of a specific debt of the borrower described above, this agreement cannot be revoked and will remain in effect until the debt is paid in full. If this guaranty covers both the borrower's present and future debts, I agree that this guaranty will remain binding on me, whether or not there are any debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence.

Notice of revocation or notice of my death or incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinencings and

Notice of revocation or notice of my death of incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such debts. I agree that if any other person signing this agreement provides a notice of revocation to you, I will still be obligated under this agreement until I provide a notice of revocation to you. If any other person signing this agreement dies or is declared incompetent, such fact will not affect my obligations under this agreement.

OBLIGATIONS INDEPENDENT - I agree that I am obligated to pay according to the terms of this guaranty even if any other person has agreed to pay the borrower's debt. My obligation to pay according to the terms of this guaranty shall not be affected by the lilegality, invalidity or unenforceability of any notes or agreements evidencing the debt, the violation of any applicable usury laws, forgery, or any other circumstances which make the indebtedness

unenforceable against the borrower.

unenforceable against the borrower.

I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has such obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law. In such situations, my obligation shall include post-bankruptcy petition interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's indebtedness due to borrower's discharge. I will also be obligated to pay you, to the fullest extent permitted by law, any deficiency remaining after foreclosure of any mortgage or security interest securing borrower's debt, whether or not the liability of borrower or any other obligor for such deficiency is discharged by statute or judicial decision. If any payments by borrower to you are thereafter set aside, recovered, rescinded, in whole or in part, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of borrower or any other obligor), then I am obligated to reimburse or indemnify you for the full amount, you so pay together with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated principal amount (plus other agreed charges), you may allow the borrower to incur debt in excess of the specified amount and apply to the negreet of

with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated principal amount (plus other agreed charges), you may allow the borrower to incur debt in excess of the specified amount and apply to the payment of such excess any amounts you receive for payment of the debt from the borrower or any other person, any amounts resulting from any collateral, or amounts received from any other source, without affecting my obligations under this agreement.

No modification of this agreement is effective unless in writing and signed by you and me, except that you may, without notice to me and without the addition of a signed writing or my approval; (1) release any borrower or other person who may be liable for borrower's debt, (2) release or substitute any collateral, (3) fall to perfect any security interest or otherwise impair any collateral, (4) waive or impair any right you may have against any borrower or other person who may be liable for borrower's debt, (5) procure any additional security or persons who agree to be liable for borrower or any person who may be liable for the debt, (8) apply amounts you receive from the borrower or other persons to payment of the debt in any order you select, (9) make any election with respect to the debt, (11) extense any rights you have with any person liable for the debt, (10) exercise or fall to exercise any rights you have with respect to the debt, (11) extense in the interest rate or in the method, time, place or amount of payment) without affecting my obligation to pay under this guaranty.

WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by WAIVER - I wave presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by law, all notices, all defenses and claims that the borrower could assert, any right to require you to pursue any remedy or seek payment from any other person before seeking payment under this agreement, and all other defenses to the debt, except payment in full. You may without notice to me and without my consent, enter into agreements with the borrower from time to time for purposes of creating or continuing the borrower's debt as allowed by this guaranty. I agree that I will be liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure (or repossession) and sale of any collateral without regard to whether borrower's obligation to pay such deficiency is discharged by law. If any payments on the debt are set aside, recovered or required to be returned in the event of the insolvency, bankruptcy or reorganization of the borrower, my obligations under this agreement will continue as if such payments had never been made.

agreement will continue as if such payments had never been made.

I also waive and relinquish all present and future claims, rights, and remedies against borrower or any other obligated party arising out of the creation or my performance of this guaranty. My waiver includes, but is not limited to, the right of contribution, reimbursement, indemnification, subrogation, exoneration, and any right to participate in any claim or remedy you may have against the borrower, collateral, or other party obligated for borrower's debts, whether or not not such claim, remedy, or right arises in equity, or under contract, statute or common law.

REMEDIES - If I fail to keep any promise contained in this agreement or any agreement securing this agreement, you may, make this agreement and the borrower's debt immediately due and payable, you may set-off this obligation against any right I have to receive money from you (however, you may not set-off against any accounte in which my rights are only as a flduciary or my IRA or other tex-deferred retirement account), you may use any remedy you have under state or federal law, and you may use any remedy given to you by any agreement securing this agreement. If I die, am declared incompetent, or become insolvent (either because my liabilities exceed my assets or because I am unable to pay my debts as they become due), you may make the debt immediately due and payable. debt immediately due and payable. COLLECTION COSTS - Except whe

COLLECTION COSTS - Except when prohibited by law, I agree to pay the reasonable costs and expenses you incur to enforce and collect this agreement, including attorneys' fees and court costs.

SECURITY - This guaranty is I unsecured secured by

#### NOTICE TO COSIGNER

NOTICE TO COSIGNER

You are being asked to guarantee the debts described above. If you are making a "Present and Future Debt Guaranty" as identified above, you are being asked to guarantee present as well as future debts of the borrower entered into with this lender. Think carefully before you do. If the borrower doesn't pay these debts, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of these debts if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The lender can collect these debts from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If these debts are ever in default, that fact may become part of your credit record.

of	September,		ixed my seal on this 17thday _ , and, by doing so, agree to
the terms	of this guaranty and	oknowledge having	grad the Notice to Cosigner.
x		N MI	(SEAL
JOHN	W. GOFF	(1/A)	(SEAL
	/		(SEAL
	·		(SEAL

HN W GOFF TECHNACENTER 80 MONTGOMERY. AL 36117**-**6028

**GUARANTOR'S NAME AND ADDRESS** "I" includes each guarantor above, jointly and severally

Community Bank & Trust P O Box 310 Union Springs, AL 36089 LENDER'S NAME AND ADDRESS
"You" means the Lender, its successors and assigns.

MONTGOMERY AL 36117-6028

JFF GROUP,

80 TECHNACENTER DR

BORROWER'S NAME AND ADDRESS
"Borrower" means each person above.

INC

#### GUARANTY

For good and valuable consideration, the receipt and sufficiency of wh	ich are hereby acknowledged, and to induce you, at your option, to make loans o
engage in any other transactions with borrower from time to time, I at	solutely and unconditionally guarantee the full payment of the following debts (as
defined herein) when due (whether at maturity or upon acceleration):	
COLORDY CENT CITADANTY	

i absolutely and unconditionally guarantee to you the payment and performance of the following described debt (including all renewals, extensions, refinancings and modifications) of the borrower:

#### PRESENT AND FUTURE DEBT GUARANTY

🔀 I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you including, but not limited to, the following described debt(s):

LOAN #700108011 DATED 10/14/2004

I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you, up to the principal amount of \$ plus accrued interest, attorneys' fees and collection costs referable thereto (when permitted by law), and all other amounts agreed to be paid under all agreements evidencing the debt and securing the payment of the debt. You may, without notice, apply this guaranty to such debts of the borrower as you may select from time to time.

DEFINITIONS - As used in this agreement, the terms "I," "we," and "my" mean all persons signing this guaranty agreement, individually and jointly, and their heirs, executors, administrators and assigns.

The term "debt" means all debts, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the

The term "debt" means all debts, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the terms of any notes or agreements securing the payment of any debt, liability or obligation, overdrafts, letters of credit, guaranties, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contingent, except for any obligations incurred by borrower after the date of this guaranty for which the borrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which, although you require the addition of a guaranty, the borrower chooses someone other than me to guaranty the obligation.

APPLICABLE LAW - This agreement is governed by the law of the state in which you are located. Any term of this agreement that does not comply with applicable law will not be effective if that law does not expressly or impliedly permit variations by agreement. If any part of this agreement cannot be enforced according to its terms, this fact will not affect the balance of this agreement is governed by the same according to its terms, this fact will not affect the balance of this agreement is limited to the payment of a specific debt of the borrower described above, this agreement cannot be revoked and will remain in effect until the debt is paid in full. If this guaranty covers both the borrower present and future debts, I agree that this guaranty will remain binding on me, whether or not there are any debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence.

Notice of revocation or notice of my death or incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you accusally

borrower's debt. My obligation to pay according to the terms of this guaranty stain to be already or agreements evidencing the debt, the violation of any applicable usury laws, forgery, or any other circumstances which make the indebtedness unenforceable against the borrower.

I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has such individual or any other amounts which borrower is discharged by law. In such situations, my obligation shell include post-bankruptcy petition interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's indebtedness due to borrower's discharge. I will also be obligated to pay you, to the fullest extent permitted by law, any deficiency remaining after foreclosure of any mortgage or security interest securing borrower's debt, whether or not the liability of borrower or any other obligor for such deficiency is discharged by statute or judicial decision. If any payments by borrower to you are thereafter set asids, recovered, resclined, in whole or in part, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason (including, without limitation, the bankruptcy, insolvency, or reorganization of borrower or any other obligor, then I am obligated to relimburse or indemnify you for the full amount you so pay together with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated with excess any amounts you receive for payment of the debt from the borrower of the specified amount and apply to the payment of such excess any amounts you receive form any other source, without affecting my obligations under this agreement.

No modifi

you and the borrower (including, but not limited to, changes in the interest rate or in the method, time, place or amount of payment) without affecting my obligation to pay under this guaranty.

WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by law, all notices, all defenses and claims that the borrower could assert, any right to require you to pursue any remedy or seek payment from any other person before sesking payment under this agreements, and all other defenses to the debt, except payment in full. You may without notice to me and without my consent, enter into agreements with the borrower from time to time for purposes of creating or continuing the borrower's debt as allowed by this guaranty. I agree that I will be liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure (or repossession) and sale of any collateral without regard to whether borrower's obligation to pay such deficiency is discharged by law. If any payments on the debt are set aside, recovered or required to be returned in the event of the insolvency, bankruptcy or reorganization of the borrower, my obligations under this agreement will continue as if such payments had never been made.

I also waive and relinquish all present and future claims, rights, and remedias against borrower or any other obligated party exists out of the creation.

I also waive and relinquish all present and future claims, rights, and remedies against borrower or any other obligated party arising out of the creation or my performance of this guaranty. My waiver includes, but is not limited to, the right of contribution, reimbursement, indemnification, subrogation, exoneration, and any right to participate in any claim or remedy you may have against the borrower, collateral, or other party obligated for borrower's

exoneration, and any right to participate in any claim or remedy you may have against the borrower, colleteral, or other party obligated for borrower's debts, whether or not not such claim, remedy, or right arises in equity, or under contract, statute or common law.

REMEDIES - If I fail to keep any promise contained in this agreement or any agreement securing this agreement, you may, make this agreement and the borrower's debt immediately due and payabls, you may set-off this obligation against any right I have to receive money from you (however, you may not set-off against any accounts in which my rights are only as a fiduciary or my IRA or other tax-deferred retirement account), you may use any remedy you have under state or federal law, and you may use any remedy given to you by any agreement securing this agreement. If I die, am declared incompetent, or become insolvent (either because my liabilities exceed my assets or because I am unable to pay my debts as they become due), you may make the debt immediately due and payable. debt immediately due and payable.

COLLECTION COSTS - Except when prohibited by law, I agree to pay the reasonable costs and expenses you incur to enforce and collect this agreement,

including attorneys' fees and court costs.

SECURITY - This guaranty is 🔀 unsecured 🗆 secured by

#### NOTICE TO COSIGNER

You are being asked to guarantee the debts described above. If you are making a "Present and Future Debt Guaranty" as identified above, you are being asked to guarantee present as well as future debts of the borrower entered into with this lender. Think carefully before you do. If the borrower doesn't pay these debts, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of these debts if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The lender can collect these debts from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If these debts are ever in default, that fact may become part of your credit record.

in witness wh	ereof, i have sign	ned my name ar	nd affixed my seal on this 15thday
of	October,	2004	, and, by doing so, agree to
the terms of t	his guaranty and	acknowledgeth	aving read the Notice to Cosigner.
	Cha	/ ///	(SEAL)
JOHN W	GOFF		(SEAL)
			(SEAL)
<del></del>			(SFAL)

MONTGOMERY.

(80 TECHNACENTER

Filed 05/25/2006

Page 30 of 33 GOFF GROUP, INC

80 TECHNACENTER DR

MONTGOMERY AL 36117-6028

BORROWER'S NAME AND ADDRESS "Borrower" means each person above.

**GUARANTOR'S NAME AND ADDRESS** "I" includes each guarantor above, jointly and severally.

DR

3611

Community Bank & Trust P O Box 310 Union Springs; AL LENDER'S NAME AND ADDRESS "You" means the Lender, its successors and assigns.

#### GUARANTY

For good ar	nd valuable consideration,	the receipt and sufficient	y of which are he	reby acknowledged,	and to induce you,	at your option, to	make loans o
engage in a	ny other transactions witi	h borrower from time to t	ime, I absolutely	and unconditionally gr	uarantee the full pa	yment of the follo	owing debts (as
	ein) when due (whether at	maturity or upon accelera	ation):		•		•
PRESENT D	FBT GUARANTY	• • • • • • • • • • • • • • • • • • • •	5				

🔣 I absolutely and unconditionally guarantee to you the payment and performance of the following described debt (including all renewals, extensions, refinancings and modifications) of the borrower: LOAN #401384302 DATED3/4/2005

#### PRESENT AND FUTURE DEBT GUARANTY

🔲 I absolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the borrower may now or at any time in the future owe you including, but not limited to, the following described debt(s):

I sbsolutely and unconditionally guarantee to you the payment and performance of each and every debt, of every type and description, that the 

DEFINITIONS - As used in this agreement, the terms "I," "we," and "my" mean all persons signing this guaranty agreement, individually and jointly, and their heirs, executors, administrators and assigns.

their heirs, executors, administrators and assigns.

The term "debt" means all debts, liabilities, and obligations of the borrower (including, but not limited to, all amounts agreed to be paid under the terms of any notes or agreements securing the payment of any debt, liability or obligation, overdrafts, letters of credit, guaranties, advances for taxes, insurance, repairs and storage, and all extensions, renewals, refinancings and modifications of these debts) whether now existing or created or incurred in the future, due or to become due, or absolute or contingent, except for any obligations incurred by borrower after the date of this guaranty for which the borrower meets your standard of creditworthiness based on the borrower's own assets and income without the addition of a guaranty, or to which, although you require the addition of a guaranty, the borrower chooses someone other than me to guaranty the obligation.

APPLICABLE LAW - This agreement is governed by the law of the state in which you are located. Any term of this agreement that does not comply with applicable law will not be effective if that law does not expressly or impliedly permit variations by agreement. If any part of this agreement cannot be enforced according to its terms, this fact will not affect the belance of this agreement.

REVOCATION - I agree that this is an absolute and continuing guaranty. If this guaranty is limited to the payment of a specific debt of the borrower's persistent and future debts. I agree that this guaranty will remain in effect until the debt is paid in full. If this guaranty covers both the borrower's present and future debts. I agree that this guaranty will remain in effect until the debt is paid in full. If this guaranty (you have actually on the actual of the paid in full.

described above, this agreement cannot be revoked and will remain in effect until the debt is paid in full. If this guaranty covers both the borrower's present and future debts, I agree that this guaranty will remain binding on me, whether or not there are any debts outstanding, until you have actually received written notice of my revocation or written notice of my death or incompetence.

Notice of revocation or notice of my death or incompetence will not affect my obligations under this guaranty with respect to any debts incurred by or for which you have made a commitment to borrower before you actually receive such notice, and all renewals, extensions, refinancings, and modifications of such debts. I agree that if any other person signing this agreement provides a notice of revocation to you, I will still be obligated under this agreement until I provide a notice of revocation to you. If any other person signing this agreement dies or is declared incompetent, such fact will not affect my obligations under this agreement.

arrect my colligations under this agreement.

OBLIGATIONS INDEPENDENT - I agree that I am obligated to pay according to the terms of this guaranty even if any other person has agreed to pay the borrower's debt. My obligation to pay according to the terms of this guaranty shall not be affected by the illegality, invalidity or unenforceability of any notes or agreements evidencing the debt, the violation of any applicable usury laws, forgery, or any other circumstances which make the indebtedness unenforceable against the borrower.

I will remain obligated to pay on this guaranty even if any other person who is obligated to pay the borrower's debt, including the borrower, has obligation discharged in bankruptcy, foreclosure, or otherwise discharged by law. In such situations, my obligation shall include post-bankruptcy patition interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's interest and attorneys' fees and any other amounts which borrower is discharged from paying or which do not otherwise accrue to borrower's indebtedness due to borrower's discharge. I will also be obligated to pay you, to the fullest extent permitted by law, any deficiency remaining after foreclosure of any mortgage or security interest securing borrower's debt, whether or not the liability of borrower or any other obligor for such deficiency is discharged by statute or judicial decision. If any payments by borrower to you are thereafter set saids, recovered, rescinded, in whole or in part, are settled by you at your discretion, or are in any way recouped or recovered from you for any reason lincluding, without limitation, the bankruptcy, insolvency, or reorganization of borrower or any other obligor), then I am obligated to relimburse or indemnify you for the full amount you so pay together with costs, interest, attorneys' fees and all other expenses which you incur in connection therewith. I also agree that if my liability is limited to a stated principal amount (plus other agreed charges), you may allow the borrower to incur debt in excess of the specified amount and apply to the payment of such excess any amounts you receive for payment of the debt from the borrower or any other person, any amounts resulting from any other source, without affecting my obligations under this agreement.

No modification of this agreement is effective unless in writing and signed by you and me, except that you may, without notice to me and without the collateral, (3) fall to perfect any security interest or otherwise impair any collateral, (4) waive or impair any right you may have against any borrower or other person who may be liable for borrower's debt, (7) elease any additional security or persons who agree to be liable for borrower or any person who may be liable for borrower's debt, (7) eleay or fall to pursue enforcement of the debt, (8) apply amounts you receive from the borrower or other persons to payment of the debt

you and the borrower (including, but not limited to, changes in the interest rate or in the method, time, place or amount of payment) without affecting my obligation to pay under this guaranty.

WAIVER - I waive presentment, demand, protest, notice of dishonor, and notice of acceptance of this guaranty. I also waive, to the extent permitted by law, all notices, all defenses and claims that the borrower could assert, any right to require you to pursue any remedy or seek payment from any other person before seeking payment under this agreement, and all other defenses to the debt, except payment in full. You may without notice to me and person before seeking payment under this agreement, and all other detendes to the debt, except payment in full. You may without notice to me and without my consent, enter into agreements with the borrower from time to time for purposes of creating or continuing the borrower's debt as allowed by this guaranty. I agree that I will be liable, to the fullest extent permitted by applicable law, for any deficiency remaining after foreclosure (or repossession) and sale of any collateral without regard to whether borrower's obligation to pay such deficiency is discharged by law. If any payments on the debt are set aside, recovered or required to be returned in the event of the insolvency, bankruptcy or reorganization of the borrower, my obligations under this payments are few payments and controlled the payments. agreement will continue as if such payments had never been made.

agreement will continue as if such payments had never been made.

I also waive and relinquish all present and future claims, rights, and remedies against borrower or any other obligated party arising out of the creation or my performance of this guaranty. My waiver includes, but is not limited to, the right of contribution, reimbursement, indemnification, subrogation, axoneration, and any right to participate in any claim or remedy you may have against the borrower, collateral, or other party obligated for borrower's debts, whether or not not such claim, remedy, or right arises in equity, or under contract, statute or common law.

REMEDIES - If I fail to keep any promise contained in this agreement or any agreement securing this agreement, you may, make this agreement and the borrower's debt immediately due and payable, you may set-off this obligation against any right I have to receive money from you (however, you may not set-off against any accounts in which my rights are only as a fluctuarry or my IRA or other tex-deferred retirement account), you may use any remedy you have under state or federal law, and you may use any remedy given to you by any agreement securing this agreement. If I die, am declared incompetent, or become insolvent (either because my liabilities exceed my assets or because I am unable to pay my debts as they become due), you may make the debt immediately due and payable. debt immediately due and payable.

COLLECTION COSTS - Except when prohibited by law, I agree to pay the reasonable costs and expenses you incur to anforce and collect this agreement, including attorneys' fees and court costs.

#### NOTICE TO COSIGNER

SECURITY - This guaranty is Dt unsecured Descured by

You are being sked to guarantee the debts described above. If you are making a "Present and Future Debt Guaranty" as identified above, you are being asked to guarantee present as well as future debts of the borrower entered into with this lander. Think carefully before you do. If the borrower doesn't pay these debts, you will have before you do. If the borrower doesn't pay these debts, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

accept this responsibility.
You may have to pay up to the full amount of these debts if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this emount.
The lender can collect these debts from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If these debts are ever in default, that fact may become part of your credit record.

In witness who	reof, i have sign	ed my nan	ne and affixed my seal or	this 4thay
of	March,			ing so, agree to
the terms of th	is guaranty and	acknowled	ge having read the Notice	s to Cosigner.
/	Jer L	+11	fret	(SEAL
			1 1	

(SEAL) (SEAL)

(SEAL)

RLPY 03284 PAGE 0673

STATE OF ALABAMA	)	
		NOTE/MORTGAGE ASSIGNMENT
MONTGOMERY COUNTY	)	

KNOW ALL MEN BY THESE PRESENTS:

THAT COMMUNITY BANK & TRUST, (hereinafter referred to as "Assignor") for and in consideration of the sum of Four Hundred Twenty Thousand Two Hundred Forty and 42/100 Dollars (\$420,240.42) to it in hand paid by PHOENIX-DURANGO, LLC, (hereinafter referred to as "Assignee") the receipt of which is hereby acknowledged, does hereby TRANSFER, SET OVER AND ASSIGN unto the said Assignee, that certain Note and Mortgage in the original amount of Six Hundred Forty-Eight Thousand Nine Hundred Fifteen and 24/100 Dollars (\$648,915.24), dated the 25<sup>th</sup> day of July, 2000, executed by Goff Group, Inc., (borrower) and said Mortgage is recorded in the Judge of Probate Office of Montgomery County, State of Alabama, in Real Property Book 2142, Page 232-233; and,

The said Assignor does hereby REMISE, RELEASE AND QUIT-CLAIM unto the said Assignee all of its right, title and interest in said Note and Mortgage. THIS ASSIGNMENT IS WITHOUT RECOURSE.

SIGNED THIS 14th day of March, 2006.

ASSIGNOR

**COMMUNITY BANK & TRUST** 

STATE OF ALABAMA BULLOCK COUNTY

I, the undersigned Notary Public in and for said State and County, hereby certify that Dave G. Bryant, as President of Community Bank & Trust, whose signature is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he did, with full authority, execute the same voluntarily on the day the same bears date.

GIVEN under my hand and seal this day 14th day of March, 2006.

(SEAL)

aula Key Woller

My Commission Expires: 4-18-09

STATE OF ALA MONTGOMERY CO

I CERTIFY THIS INSTRUMENT WAS FILED ON RLPY 03284 PG 0673 2006 Mar 22 03:26PM REESE MCKINNEY JR. JUDGE OF PROBATE

INDEX **REC FEE** CERT **CHECK TOTAL** 17827

\$2.50 \$1.00 \$8.50

... Clerk: NANCY 03:27PM

STATE OF ALABAMA	
MONTGOMERY COUNTY	)

# AMENDED ASSIGNMENT OF NOTES, MORTGAGE, ADVANCES, SECURITY AGREEMENTS, AND GUARANTIES

#### KNOW ALL MEN BY THESE PRESENTS:

THAT COMMUNITY BANK & TRUST (hereinafter referred to as "Assignor"), for and in consideration of the sum of Four Hundred Twenty Thousand Two Hundred Forty and 42/100 Dollars (\$420,240,42) to it in hand paid by PHOENIX-DURANGO, LLC (hereinafter referred to as "Assignee"), the receipt of which is hereby acknowledged, does hereby TRANSFER, SET OVER, and ASSIGN unto the said Assignee, that certain Note and Mortgage in the original amount of Six Hundred Forty-Eight Thousand Nine Hundred Fifteen and 24/100 Dollars (\$648,915.24), dated the 25th day of July, 2000, executed by Goff Group, Inc. ("borrower"), and said Mortgage is recorded in the Office of the Judge of Probate of Montgomery County, State of Alabama, in Real Property Book 2142, pages 232-233; Assignor further TRANSFERS, SETS OVER, and ASSIGNS to Assignee all renewals of said Assigned Note, including specifically, but not limited to, renewal note with Loan #400656502, executed by Goff Group, Inc., dated December 26, 2001, in the principal amount of Six Hundred Forty-Eight Thousand Nine Hundred Fifteen and 24/100 Dollars (\$648,915.24); renewal note with Loan #401384301, executed by Goff Group, Inc., dated September 17, 2003, in the principal amount of Four Hundred Twenty Thousand Thirty-Nine and 36/100 Dollars (\$420,039.36); renewal note with Loan #700108011, executed by Goff Group, Inc., dated October 15, 2004, in the principal amount of Four Hundred Six Thousand Seven Hundred Twenty-Three and 99/100 Dollars (\$406.723.99); and renewal note with Loan #401384302, executed by Goff Group, Inc., and John W. Goff, dated March 4, 2005, in the principal amount of Four Hundred Six Thousand Eight Hundred Seventy-Three and 99/100 Dollars (\$406,873.99), and all other fees and charges due under said notes. Assignor further TRANSFERS, SETS OVER, and ASSIGNS to Assignee all rights to receive or collect any and all subsequent advances made by Assignor to the Maker of the Note, Goff Group, Inc., including specifically, but not limited to, an advance of Forty-Three Thousand Two Hundred One and 64/100 Dollars (\$43,201.64) made to Goff Group, Inc., on December 26, 2001, and an advance of Fifteen Thousand Four Hundred Thirty and 29/100 Dollars (\$15,430.29) made to Goff Group, Inc., on October 15, 2004. Assignor further TRANSFERS, SETS OVER, and ASSIGNS to Assignee any and all rights of Assignor under any security agreement given by the maker or makers of any such Assigned Note to secure said note, and any and all rights under any personal guaranty of any such Assigned Note given to Assignor by John W. Goff.

The said Assignor does hereby REMISE, RELEASE, and QUITCLAIM unto the said Assignee all of its right, title, and interest in said notes, mortgage, advances, security agreements, and personal guaranties.

THIS ASSIGNMENT IS WITHOUT RECOURSE.

Signed this 24THday of May, 2006.

ASSIGNOR COMMUNITY BANK & TRUST

By: Its President

STATE OF ALABAMA)
BULLOCK COUNTY)

I, the undersigned Notary Public in and for said County in said State, hereby certify that <u>DAVE G BRYANT</u>, as President of Community Bank & Trust, whose signature is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he did, with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and seal on this 24th day of \_\_\_\_\_\_, 2006.

(SEAL)

Notary Public & Culpepson

My Commission Expires: 8/14/2008